1278.

SUPREME COURT OF THE UNITED STATES.

No. 183.

SAMUEL W. OAKEY, PLAINTIFF IN ERROR,

vs.

JOHN H. BENNETT, ADMINISTRATOR OF WM. HALL AND JOHN H. ILLIES.

IN ERROR TO THE DISTRICT COURT, U. S., FOR THE DISTRICT COURT OF TEXAS.

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UNITED STATES OF AMERICA, *ss*:

The President of the United States of America, to the judge of the district court of the United States, for the district or Texas, greeting:

Because in the record and proceedings, and also in the rendition of the judgment in a plea which is in the said district court before you, between Samuel W. Oakey, plaintiff, and John H. Bennett, administrator, and John H. Illies, defendants, *and* manifest error to the great damage of said Oakey hath intervened, as by his complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this 31st day of August, in the year of our Lord one thousand eight hundred and forty-eight, and of the independence of the United States the seventy-third. [L. S.]

THOS. BATES, *Clerk*.

UNITED STATES OF AMERICA,
District of Texas, ss:

By virtue of the within writ of error, I have hereto annexed a true copy of the record in the proceedings in the case of Samuel W. Oakey vs. John H. Bennett, administrator, and John H. Illies.

Given under my hand and seal this 20th day of September, A. D. eighteen hundred and forty-eight, and seventy-third of the independence of the United States.

THOS. BATES, *Clerk*.

UNITED STATES OF AMERICA,
District of Texas:

Be it remembered, that there was begun and held in the city of Galveston, on the first Monday of May, A. D. eighteen hundred and forty-eight, a United States district court, in and for the district of Texas: Present, the honorable John C. Watrous, judge; James H. Cocke, marshal; and Thomas Bates, clerk.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT, administrator,
and John H. Illies.

Petition.

Filed 25th January, 1847. Copies of petition and summons issued same day.

THOS. BATES, *Clerk*.

UNITED STATES OF AMERICA,
District of Texas:

To the honorable John C. Watrous, judge of the United States district court, within and for the district of Texas, at the next regular term of said court, to be holden at Galveston, in said district, on the first Monday in February next, exercising the powers and jurisdiction belonging and appertaining to a circuit court of said United States of America:

The petition and complaint of Samuel W. Oakey, a citizen of the State of Louisiana, one of the United States of America, against John H. Bennett, a citizen of Galveston, in the State of Texas, as administrator on the estate of William Hall, late deceased, and also against one John H. Illies, a citizen of, and residing in, Galveston, in said State of Texas, most respectfully sheweth unto your honor:

That said William Hall, in his lifetime, and on or about the 9th day of February, 1843, was the owner, and lawfully seized and possessed of a certain lot or parcel of ground, being and known as lot numbered thirteen, (13,) in block numbered six hundred and eighty-one, (681,) in the city of Galveston, in said State of Texas, together with all the improvements and appurtenances thereon standing, being, or in any wise appertaining.

That on the said ninth day of February, 1843, the said William Hall did apply to the honorable United States district court, in and for the eastern district of Louisiana, for the benefit of an act of Congress, entitled "an act to establish a uniform system of bankruptcy throughout the United States;" and that he, the said Hall, did then and there make a valid and legal assignment of said lot numbered 13, in block numbered 681, the improvements and appurtenances, together with all and singular the effects, both real and personal, then belonging, or in any wise appertaining, to him, said Hall; and that said honorable court, in and for said eastern district of Louisiana, did, on the 10th day of March, 1848, duly declare said Hall a bankrupt, pursuant to an act of Congress, entitled "an act to establish a uniform system of bankruptcy throughout the United States," passed August 19, 1841; and that on said 10th day of March, 1843, Francis B. Conrad was by said court, and an order and decree thereof, duly appointed assignee of all and singular the estate of said Hall, bankrupt as aforesaid; and that said Conrad duly filed a bond and gave security for the faithful discharge of

his duties of *and* assignee as aforesaid, which said bond and security was duly filed and approved by said honorable court. And your petitioner further avers, that on the 18th day of June, 1845, said lot numbered 13, in block numbered 681, was duly sold by virtue of an order of said honorable court, and the directions and instructions of said Conrad, as assignee as aforesaid, and that your petitioner then and there duly and legally became the purchaser and owner of said lot 13, in block 681, together with all the improvements and appurtenances thereto belonging or appertaining; and that your petitioner has continued the legal owner and proprietor of said lot 13, and all improvements and appurtenances thereto belonging, to the day of making this said petition and complaint; and petitioner avers further, that on or about the 23d day of March, 1844, the said Hall departed this life, and that said John H. Bennett was duly appointed administrator of all and singular the goods, chattels, and estate of him, the said Hall, deceased as aforesaid; and petitioner avers that he, petitioner, is the just, true, and lawful owner of said lot numbered 13, in block numbered six hundred and eighty-one, together with all improvements and appurtenances thereto belonging, by a direct chain of title from said Hall, through said Conrad as aforesaid; of which said defendants, John H. Bennett, administrator as aforesaid, and John H. Illies, have had due notice.

And your petitioner further avers that said defendant, John H. Bennett, acting as administrator as aforesaid, pretends that said lot numbered 13, in block numbered 681, together with the warehouse and improvements, were the property of him, said Hall, at the time of his decease as aforesaid; and he, the said John H. Bennett, as administrator as aforesaid, claims the said lot 13, in block 681, as property belonging to the estate of him, said Hall, and said Bennett claims and demands the rents and profits of and from said lot, warehouse, and improvements arising; and petitioner avers that said Bennett, pretending to act as administrator as aforesaid, did for a long time after the death of him, said Hall, demand and receive the rents and profits arising from the same, and which petitioner avers he is entitled to demand and receive.

And petitioner further avers, that said defendant, John H. Illies, is now, and has been for a long time past, in the enjoyment and possession of the premises aforesaid, being lot numbered 13, in block 681, together with all the appurtenances thereon being. And petitioner avers that said Illies, well knowing the said Samuel W. Oakey, petitioner, to be the just, true, and rightful owner of said property, did heretofore, to wit, on the first day of September, 1845, promise this petitioner that he would well and truly pay to your petitioner the rent justly due and owing for the use and occupation of the premises aforesaid. But defendant avers that said Bennett, acting as administrator as aforesaid, claims and demands all rents and profits arising from the use and occupation of the premises aforesaid of him, said Illies. And also petitioner avers that said Illies refuses to pay the rent and profits aforesaid to your petitioner. And petitioner avers that the rents and profits of said premises amount to the sum of six hundred dollars per

annum. Also that said Bennett only claims said property and premises by virtue of being administrator on the estate of Hall, deceased, as aforesaid, and in no other wise. And petitioner avers that the acts and doings of the said defendants, Bennett and Illies, are to the great damage of petitioner, in the sum of six thousand dollars.

In consideration whereof, petitioner prays your honor that said defendants, Illies and Bennett, administrator on the estate of Hall, deceased, may be cited to be and appear before your honorable court, next to be holden at Galveston, in said district of Texas, then and there to answer this petition, and the matters and things herein set forth; and that your honor would be pleased to pronounce and decree in favor of your petitioner and against the said defendants, for the said premises, being lot numbered 13, in block 681, together with all improvements thereon, or in any wise appertaining; and also for all rents and profits which may appear to your honor to be due from said defendants, or either of them, to your petitioner. And petitioner further prays, that he may be by a decree of your honorable court quieted in the peaceable enjoyment and possession of said premises, and that said Bennett, as administrator as aforesaid, and all persons claiming by, from, through, or under him, may be forever barred from having or pretending to have any right, title, or interest in or to the said premises numbered and described as aforesaid.

And petitioner prays your honor that such other and further relief may be granted him in the premises as to your honor may seem meet and just, and as may be according to the rules of equity and good conscience.

SWETT AND MERRIMAN,
Pro Petitioner.

Summons issued 25th January, 1847.

UNITED STATES DISTRICT COURT, *District of Texas:*

The President of the United States of America, to the marshal or any of his lawful deputies of the district of Texas, greeting:

You are hereby commanded to summon John H. Bennett, administrator of the estate of W. Hall, deceased, if he be found in your district, to be and appear before the honorable the district court of the United States, at a court to be holden in and for the district of Texas, at the city of Galveston, on the first Monday of February next, to answer the petition and complaint of Samuel W. Oakey, in an action amounting to the sum of six thousand dollars in damages, of which you will serve the defendant with the accompanying copy of said petition.

Witness the honorable John C. Watrous, judge of said court, and seal of court, at the city of Galveston, this twenty-fifth day of [SEAL.] January, A. D. 1847, and seventy-first year of the independence of the United States.

THOMAS BATES, *Clerk.*

Marshal's return.

Received 25th January, 1847, and executed same day by serving defendant, John H. Bennett, in person, with a true copy of the within writ and copy of plaintiff's petition as furnished by the clerk.

A. F. JAMES, *Deputy Marshal.*

Summons issued 25th January, 1847.

UNITED STATES DISTRICT COURT, *District of Texas:*

The President of the United States of America, to the marshal or any of his lawful deputies of the district of Texas, greeting:

You are hereby commanded to summon John H. Illies, if he be found in your district, to be and appear before the honorable the district court of the United States, at a court to be holden in and for the district of Texas, at the city of Galveston, on the first Monday in February next, to answer the petition and complaint of Samuel W. Oakey, in an action amounting to the sum of six thousand dollars in damages, of which you will serve the defendant with the accompanying copy of said petition.

Witness the honorable John C. Watrous, judge of said court, and seal of court, at the city of Galveston, this twenty-fifth day of [SEAL.] January, A. D. 1847, and seventy-first year of the independence of the United States.

THOMAS BATES, *Clerk.*

Marshal's return.

Received 25th January, 1847, and executed same day by serving defendant, John H. Illies in person, with a true copy of the within writ and copy of plaintiff's petition as furnished by the clerk.

A. F. JAMES, *Deputy Marshal.*

Tuesday, February 2d, 1847.

SAMUEL W. OAKEY vs. BENNETT & ILLIES. } Judgment by default.

Answer.

Filed 8th February, 1847. THOMAS BATES, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
State of Texas.

JOHN H. BENNETT, administrator of William Hall, impleaded with John H. Illies, ads. SAMUEL W. OAKEY.

1. And the said John H. Bennett, administrator as aforesaid, craves over of the alleged legal and valid assignment of lot numbered 13, in block 681, in the city of Galveston, with the improvements and appurtenances made by the said William Hall.

BUTLER AND JONES, *Attorneys.*

2. And the said John H. Bennet, administrator as aforesaid, for answer to said petition and the matters and things therein set forth says, that the same are not sufficient in law for the said plaintiff to have and maintain his aforesaid action thereof against this defendant; wherefore he prays judgment. BUTLER [&] JONES,

Att'ys and of counsel.

3. And for a further answer the said John H. Bennett, administrator as aforesaid says, that the said William Hall was in his lifetime seized of lot thirteen, in block six hundred and eighty-one, denies that the said William Hall did make any legal and valid assignment of said lot in his lifetime to any person or persons whomsoever.

And this defendant further shews, that it is true that the said William Hall departed this life on or about the twenty-third day of March, 1844, and before the annexation of Texas to the United States. This defendant was duly appointed by the probate court of Galveston county, administrator of all and singular the goods, chattels, and estate of him, the said William Hall, deceased. That after such appointment this defendant duly proceeded in the course of administration, and that the claims by various creditors against the estate of the said William Hall, set forth in the account hereto annexed, and approved and finally allowed by the probate court of Galveston county, were duly established as claims against the estate of the said William Hall, before any conveyance or pretended conveyance, or claim or pretended claim, of title from the said Hall to any person whatever affecting the said lot, was set up or registered in Galveston county according to law. That the account hereto annexed, in addition to such claims of creditors, contains items of expenses, counsel fees, &c., incurred by this defendant in the administration of said estate, and all of which have been passed upon and finally audited and admitted by the probate court of Galveston county, as will more fully appear by an exemplified copy of said account, and the decree or order of the probate court allowing said account hereto annexed, and forming part of this answer.

4. That this defendant is also a creditor of the estate of said William Hall, deceased, to the amount of $545 61. That he gave credit to the said William Hall in his lifetime without any knowledge, actual notice or reasonable information, that the said William Hall had transferred the said lot, and upon the *fourth* of the property then held by the said William Hall in the Republic of Texas.

5. That when letters of administration were granted to your petitioner he had no actual notice or reasonable information of any such pretended transfer. That he has acted in good faith in the administration of such estate; encountered various and necessary expenses in administering the said estate, and particularly in suits brought against the estate by the said plaintiff, or for his use, in the district court of Galveston county; and the said lot now claimed by the plaintiff is almost the only property or assets of the estate of the said William Hall left to pay the sum of eighteen hundred and eleven dollars and three cents, the balance of established claims and expenses of administration found to be due from the said estate by the probate court of Galveston county.

6. That this defendant denies that the petitioner is the just, true, and lawful owner of lot 13, in block 681, by a direct chain of title from said Hall, and that this defendant had any notice of such pretended claims of the said plaintiff, until after every claim of every creditor set forth in the account hereto was established in due course of law.

7. And this defendant further says, that after taking out letters of administration, and having no knowledge, notice, or information of any adverse claim to the said lot, and knowing that the said William Hall had continued to act as owner of said lot up to the time of his death, this defendant took possession of said lot in good faith as administrator, and leased the same to the said John H. Illies, who continued in possession as tenant of this defendant, administrator as aforesaid.

8. And this defendant further insists that if the said plaintiff has any title to the said lot it is entirely subordinate to the claims of the creditors of the said William Hall, residing in the former Republic of Texas, and only after they may be satisfied in course of administration, or the said plaintiff have any claim upon the said premises as against the heirs of law of the said William Hall.

9. And this defendant further shews that the said petitioner has claimed other property as the property of said William Hall, under similar pretended conveyances. That the said Samuel W. Oakey has claimed lot nine, in block six hundred and twenty-two, in the city of Galveston, by conveyance dated eighteenth of June, 1845, made by the same Francis B. Conrad to the said Samuel W. Oakey. That if there was any legal and valid sale by the said Conrad of any pretended property of the said Hall, it was of lot nine, in block six hundred and twenty-two, not of lot thirteen, in block six hundred and eighty-one, and that the said pretended conveyance by said Conrad of lot thirteen, in block 681, was without authority, nugatory and invalid.

And this defendant prays to be hence dismissed with his costs and charges. BUTLER [&] JONES, *for def't*.

Interrogatories propounded to Plaintiff.

First interrogatory. How many deeds, conveyances, or transfers have you received from Francis B. Conrad, as assignee of William Hall, for lots or real estate in the city of Galveston? Annex copies of such deeds, and deposit the original with the clerk of this court.

Second interrogatory. Did you ever receive from the said Francis B. Conrad a deed or conveyance of lot nine, or any other lot in block six hundred and twenty-two; was such deed ever recorded in Galveston county? Annex to your answer such deed or conveyance, or a sworn copy thereof.

John H. Bennett, being duly sworn, doth depose and say, that the answers by defendant to the above interrogatories are material to *and* this defendant in his defence, and that he knows of no other person by whom he can prove the same facts. JOHN H. BENNETT.

Sworn to before me, this 8th day of February, 1847.

THOS. BATES, *Clerk*.

The estate of William Hall, deceased, in account with John H. Bennett, administrator.

1844.	Dr.		
May 31	To amount fees paid judge and clerk for letters of adm'r ad colligendum - -		$4 70
June 19	amount paid R. D. Johnson, post office account - - - -	$32 79	
	amount paid H. Stuart account -	10 76	
	amount paid J. M. Seymour acct.	4 02	
			47 57
June 28	amount paid judge and clerks' fees for letters of administration -	3 00	
July 3	amount paid Edwin B. Andrews' account - - -	14 50	
	amount paid Doct. Wm. M. Carper account - - -	10 00	
	amount paid Joseph Osterman account - - - -	4 75	
			32 25
Aug. 7	amount paid for 100 feet lumber and 10 lbs. nails - -	3 25	
	amount paid repairing steps in front of warehouse - - -	3 00	
			6 25
Aug. 17	amount paid his two notes for $7 50 each, dated July 1st, 1842, and interest, in favor of A. Ball - -		17 50
Sept. 11	amount paid Jno. Moyan Hall, account for funeral expenses of Wm. Hall - -		70 72
Oct. 5	amount paid Cleason, Illies & Co. for repairs on house - -	4 20	
	amount paid Gunderinan for repairs on chimney - -	1 00	
			5 20
Oct. 31	amount paid Doct. A. Foster Anom's bill, medical attendance during his last illness		60 00
Nov. 19	amount paid republic and county tax, 1844, and city lot improvements - -		8 12
Dec. 31	amount paid city taxes - - -		3 75
	amount paid J. A. Sauters' account -		3 30
1845.			
Ap'l 10	amount paid judgment and costs in favor of E. Kauffman - - -		30 50
May 24	amount paid Cleason, Illies & Co. for repairing foundation of store, &c. -		41 97
	amount paid 250 feet lumber furnished -		6 25
	amount paid certificate of discharge in bankruptcy - - - - -		5 00

Account—Continued.

1845.		
June 14	To amount paid certified copy of schedule of Wm. Hall in bankruptcy - -	$5 50
	amount paid James P. Cole, counsel fee -	50 00
Sept. 23	amount paid city taxes for 1845, on lot No. 13, block No. 681 - - -	5 13
Nov. 10	amount paid exemplified copy of papers of Wm. Hall, in bankruptcy, from U. S. district court in New Orleans - -	47 98
Dec. 31	amount paid H. Stuart for advertising store-house, viz., July 16th, and August 16th, 1845 - - - - -	6 00
	amount carried forward - - -	457 89
1846.	amount brought forward from reverse page	457 89
Mar. 7	amount paid republic and county tax for 1845 - - - - -	9 00
	amount paid for exemplified copy of papers of Wm. Hall in bankruptcy - -	20 00
	amount paid of J. H. Bennett account rendered probate court - - -	545 61
	amount paid Wm. Hall's note in favor of J. L. Puest - - - -	100 00
	amount paid draft on James Love -	300 00
	amout paid Jonas Butler account - -	135 57
	amount paid Wm. J. Bryan account -	5 07
	amount paid A. L. Phillips' account -	46 48
	amount paid R. E. Booth account -	18 66
	amount paid Paul Bremond account	15 15
	amount paid A. T. Burnley & Co. acct. -	484 39
	amount paid Benj. P. Hartshorn account -	240 00
	amount paid Edward Hall's account -	28 63
	amount paid Jonas Butler counsel fee -	300 00
	amount paid State and county tax for 1846	6 00
	amount paid city school - - -	16 04
	amount paid 5 pr. adm. com'n on am't of disbursements $2,728$\frac{48}{100}$ - -	136 42
	amount paid 5½ pr. adm. com'n on am't of receipts $1,009$\frac{55}{100}$ - - -	55 47
		$2,920 38
	balance brought down due J. H. Bennet, administrator - - - -	1,811 03

E. and O. E.

Galveston, December 12, 1846. JNO. H. BENNETT.

Sworn to and subscribed before me, this 12th December, 1846.

OSCAR FARISH, *Clerk.*

The estate of Wm. Hall, deceased, in account current with John Bennett, administrator.

1844.	Cr.	
July 27	By amount collected from J. L. Darragh -	$3 52
30	amount collected from Edmund Andrews -	8 49
Sept. 11	Sales of personal effects of Wm. Hall, per G. B. Inniss' acct. sales of 7 inst. - -	103 24
Oct. 31	Collected of J. H. Illies 7 mos. rent of store, from 1 April to date, a $50 -	350 00
	Collected of J. H. Illies P. G. Merritt's note in favor of Benj. L. Hartshorn, for $178 03	
	Less 15 per cent. as per agreement between Illies & Hall - - 26 70	
		155 33
1845.		
Mar. 31	Collected from J. H. Illies for 5 months' rent of store, from 1 November, 1844, to date, $40	200 00
May 28	Collected of Brown & McCutchon - -	42 77
Aug. 31	Collected of J. H. Illies acct. 5 months' rent of store, from 1 April to date, $50 - -	250 00
	Balance carried forward - - -	1,811 03
		$2,920 38

I solemnly swear that the above account of the moneys received and expended by me, as administrator of the estate of William Hall, deceased, is just and true. So help me God.

JOHN H. BENNETT.

Sworn to and subscribed before me, the 25th day of January, A. D. 1847.

JOHN S. JONES,
Probate judge.

Probate court, January term, 1847.

State of Texas, *Galveston county.*

J. H. Bennett administrator of the estate of Wm. Hall, deceased; petition for settlement of his accounts and allowance of same.

And now, at this term of the court, comes on to be heard the petition of J. H. Bennett, administrator of the estate of William Hall, deceased, praying to have his accounts as administrator allowed; and due proof having been made and exhibited that publication had been made for the time and in the manner required by law, and the said accounts having been examined, and no objection appearing to the allowance of the same, it is ordered and decreed that the said account be and the same is hereby allowed and fully approved.

STATE OF TEXAS, *County of Galveston:*

I, Oscar Farish, clerk of the probate and of said county, do hereby certify, that the foregoing and within account of the administrator of Wm. Hall, deceased, and the above decree in reference thereto, are true copies from the records of said probate court.

[SEAL.] Witness my hand and seal of said court, Feb. 5, 1847.

OSCAR FARISH, *Clerk*.

Saturday, February 13th, 1847.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT, admr., and John H. Illies.

In this cause, at the suggestion of the parties, Lent M. Hitchcock, jr., is appointed receiver, to take charge and receive all the rents and profits of the same, and make his return into court of the same at the next term hereof, and continued.

Intervention.

Filed 15th May, 1847.

THOS. BATES, *Clerk*.

DISTRICT COURT, *State of Texas:*

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT, admr., &c., of William Hall and John Illies.

And now comes Jonas Butter and John A. Dodd, in behalf of themselves and other creditors of the estate of William Hall, and say that they are creditors of the estate of William Hall, and pray that they may be permitted to intervene in the above entitled suit, to defend their rights as creditors of the estate of the said William Hall.

JOHN B. JONES, *for intervenors*.

Friday, December 17th, 1847.

SAM. W. OAKEY
vs.
BENNETT, admr., et al.
Continued by consent.

Thursday, March 23, 1848.

SAML. W. OAKEY
vs.
JOHN H. BENNETT, admr.
John H. Illies.
Continued as on affidavit of plaintiff.

Amended pleadings.

Filed 25th March, 1848.

THOS. BATES, *Clerk*.

UNITED STATES DISTRICT COURT,
For the State of Texas:

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT, admr., &c., implended with Illies.

And now at this day comes the said John H. Bennet, and the oyer by him craved having been granted by a document or paper entitled extracts from the bankrupt proceedings of William Hall, No. 710, United States district court for the district of Louisiana, and filed here on the thirtieth day of August, 1847, the said John H. Bennett, by leave of the court first had and obtained, amends his demurrer heretofore filed by assigning the following causes of demurrer:

First. That the said pretended legal and valid assignment of the said William Hall is not a legal and valid assignment sufficient to pass real estate in the then Republic now State of Texas.

Second. No deed sufficient to pass real estate appears to have been executed by William Hall, under whom the plaintiff claims.

Third. The plaintiff's title rests upon certain alleged proceedings in bankruptcy taken by William Hall, in the State of Louisiana, in 1843; and such proceedings were not sufficient to pass title to real estate in the then Republic of Texas.

Fourth. Bennett's possession as administrator is a possession for the benefit of creditors, and is good against a bankrupt assignment.

Fifth. The title of plaintiff, if any, is not a legal title, and cannot be the foundation of an action of ejectment.

And for that the said petition is uncertain, informal, and insufficient.

JONES & BUTLER, *for defendant*.
J. H. BENNETT.

One. And for a further answer in addition to the answers by this defendant already pleaded, the said defendant says, that the instrument exhibited by the plaintiff on oyer is not the deed of William Hall, nor is it a true and correct copy of any instrument executed by William Hall in his lifetime; but that the said instrument contains material words and figures not in the original paper executed by the said William Hall, if any he ever executed; and this he is ready to verify.

Two. And for a further answer said defendant says, that there is no such record on file in the United States district court, for the southern district of Louisiana, as the said plaintiff hath above in pleading alleged.

JONES & BUTLER, *for defendant*.
BENNETT, *Admr., &c.*

John H. Bennett, the defendant above named, being duly sworn, doth depose and say, that the plea by him herein pleaded, marked one, is true to the best of his knowledge and belief.

JNO. H. BENNETT.

Sworn to in open court, 25th March, 1848.

THOS. BATES, *Clerk*.

Motion.

Filed 17th May, 1848.

THOS. BATES, *Clerk*.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT et al.

In the above entitled case it appearing, from the answers of defendants, that the subject matter of this suit is more properly cognizable in equity, the plaintiff moves the court that this suit be transferred to the equity side of the court, with leave to the party plaintiff to file a bill, and defendant to answer, and that costs may abide the event of the suit.

J. A. SWETT, *Pro Plff.*

Motion.

Filed 20th May, 1848.

THOS. BATES, *Clerk*.

United States district court, May term, 1848.

SAMUEL OAKEY
vs.
ILLIES and BENNETT. } Suit to try titles.

The plaintiff in this court moves the court to strike out all that part of the plaintiff's answer which annexes a list or tableau of Hall's debts, and insists on the application of the effects to pay the debts; because it is matter which cannot be put in issue on the trial of legal title, nor can it be pleaded by Hall's personal representative, he being estopped from denying the effect of his own act.

The plaintiff likewise moves to strike out all that part of the answer which urges a lien, because of the expenses of administration; because, if the property be the property of the plaintiff, it is subject to no such equitable charge.

The plaintiff likewise moves to strike out all that part of the answer which speaks of the plaintiff having set up title to other property, because such allegation is impertinent to the issue, and only calculated to mislead.

SWETT & MERRIMAN, and
GEO. W. PASCHAL,
For Plaintiffs.

This motion embraces pleas numbered 3, 4, 5, 7, 8, 9, of defendant's answer, and also the plea of intervention and 2, amended plea.

S. & M. & P.

Saturday, May 27th, 1848.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT, admr., et al.

This day *comes* the parties by their attorneys, and the plaintiff, by attorney, moves the court that this suit be transferred to the equity side of

the court; and, after hearing argument of counsel, it is considered by the court that said motion be overruled.

Tuesday, May 30th, 1848.

SAM'L W. OAKEY
vs.
JOHN H. BENNETT, admr., et al.

This day come the parties by their attorneys, and defendant demurs to plaintiff's petition; whereupon, and after hearing argument of counsel, and upon mature deliberation of the court, it is considered that said demurrer be sustained.

Amended petition.

Filed 31st May, 1848.

THOS. BATES, *Clerk.*

The amended petition of Samuel W. Oakey in the case of said Samuel W. Oakey against John H. Bennett, as adminsitrator of William Hall, deceased, and John H. Illies.

UNITED STATES OF AMERICA,
District of Texas, ss:

To the honorable John C. Watrous, judge of said district court, exercising circuit court powers.

The petition of Samuel W. Oakey, a citizen of the State of Louisiana, against John H. Bennett and John H. Illies, citizens of the State of Texas, respectfully shows, that heretofore, to wit, on the thirteenth day of June, in the year of our Lord one thousand eight hundred and forty-five, at, to wit, in the district aforesaid, your petitioner was seized in his demesne as of fee of a certain tract or parcel of land, situate, lying, and being in the county and city of Galveston, and known in the plan of survey of said city as lot number thirteen, (13,) in block number six hundred and eighty-one, (681,) together with all and singular the rights, members, and appurtenances thereto belonging or anywise appertaining, containing, according to the plan of survey, one-fourth of an acre, be the same more or less; and your petitioner being so thereof possessed, afterwards, to wit, on the same day and year aforesaid, at the county and city aforesaid, the said John H. Bennett and John H. Illies, with force and arms, entered in and upon the said land, lot, and parcel of ground, situate as aforesaid, with the tenements and appurtenances thereto belonging, and then and there forcibly ejected your petitioner therefrom, and then and there deprived your petitioner of the occupation, use, and possession and enjoyment of said lot or parcel of ground, and the tenements, hereditaments, and appurtenances thereto belonging and in everywise appertaining; and the said defendants have kept and con-

tinued your petitioner so ejected, expelled, and dispossessed for a long space of time, to wit, from thence hitherto, and other wrongs to your petitioner this said defendant then and there did, to the damage of your petitioner. Wherefore he says that he is injured and has sustained damage in a large sum of money, to wit, five thousand dollars.

The premises considered, your petitioner prays that the defendants be ordered to answer this amended petition, and that after due trial, as prescribed by law, your honor render a judgment in favor of your petitioner for his damages aforesaid, and for the recovery of the lands and tenements, hereditaments, and appurtenances aforesaid, with costs of suit about him expended, with a writ of possession, and such other order and judgment as your petitioner is entitled to in the premises; and your petitioner, as in duty bound, will ever pray, &c.

JOSEPH A. SWETT and
GEO. W. PASCHAL,
Att'ys for plaintiff.

Answer to amended petition, filed 1st June, 1848.

JOHN H. BENNETT, adm'r, and J. H. ILLIES,
ads.
SAMUEL W. OAKEY.

In district court United States, district of Texas, spring term.

And now comes the defendant, John H. Bennett, and for answer to the amended petition of said plaintiff, say they are not guilty of the said supposed trespasses in manner and form as set forth in said amended petition; and said defendants deny all and singular the allegations in plaintiff's petition contained.

BUTLER & JONES, *for def'ts.*

JOHN H. BENNETT, adm'r of Wm. Hall, dec'd,
ads.
SAMUEL W. OAKEY.

In the district court of the United States for the district of Texas, May term, 1848.

And now comes John H. Bennett, administrator of Wm. Hall, deceased, defendant in this cause, and prays judgment of court if he shall be required to answer the pretended amendment to the petition of said plaintiff, and prays that said pretended amendment may be stricken out, because he says that said pretended amendment is insufficient in law, and that it is not competent for said plaintiff to file the same, for this, to wit:

1st. That this suit, as appears by the original petition, was brought against this defendant as administrator of Wm. Hall, deceased, and this defendant is charged in his capacity as such administrator; and the pretended amendment seeks to charge this defendant personally.

2d. That said plaintiff, by his pretended amendment, introduces a new and distinct substantive cause of action.

3d. That by the said pretended amendment said plaintiff charges this defendant with a liability different in its character from that charged in the original petition.

4th. That by said amendment plaintiff has departed from his original action.

BUTLER & JONES, *for def't.*

Filed 1st June, 1848. THOS. BATES, *Clerk.*

Receiver's report, filed 2d June, 1848.

THOS. BATES, *Clerk.*

L. M. Hitchcock, jr., receiver,

In account with Oakey vs. Bennett.

Dr.		
To am't of rents from Feb. 1st, 1847, to Jan'y 1st, 1848, 11 months, a $50		$550 00
To rent from Jan'y 1st, 1848, to 1st June, 5 months, a $25		125 00
		$675 00
Cr.		
By am't paid A. Officiers' ac.	$107 22	
" " Messrs. Potter's ac.	40 00	
5½ commissions collecting 675	33 75	
5⅓ " disbursing $147 22	7 36	
		188 33
To balance due		$486 67
On which a certificate of drawback is counted as cash for		116 39
Cash in hand of receiver		$370 28

Galveston, June 1st, 1848, and paid over to Thomas Bates, clerk.

E. & E. L. M. HITCHCOCK, jr., *Receiver.*

By S. VANSICKLE.

1207.

Galveston, Feb. 15, 1848.

Mr. J. H. Illies, To A. Officiers.

819 feet cypress timber, 28 × 8 - - -	$16 38
338 I. 1 — I v l — 8 × 8, 10 × 10 - - -	6 76
7 cedar logs, † 2 pp - - - - -	14 00
425 feet pine timber, 4 × 6 × 4 × 8 - - -	8 50
50 lb. pc. spikes - - - - -	4 00
413 feet pine 1¼ brosses - - - - -	8 26
25 lb. 12-p. nails - - - - -	2 00
151 feet inch boards - - - - -	3 02
9 dray loads - - - - - -	1 80
For heiring the screw - - - -	5 00
For carpenter's labor - - - -	37 50
	$107 22

Received payment, A. OFFICIERS.

Charged to account of store rent, day book, p. 16.

Received, Galveston, April, 1847, of Jno. H. Illies, forty dollars ($40) in full for fee in case of Samuel W. Oakey vs. Jno. H. Bennett and John H. Illies, in United States court.

Day book, p. 16. H. N. & M. M. POTTER.

Motion, filed 3d June, 1848.

THOMAS BATES, *Clerk*.

Oakey
vs.
Bennett & Illies.

The defendant moves that the receiver pay the money into court according to the account filed, and that he be discharged.

Second. That the clerk pay over to John H. Bennett, defendant, all the moneys now in court and that may be paid in by the receiver.

J. BUTLER.

Monday, June 5th, 1848.

Samuel W. Oakey
vs.
John H. Bennett et al.

In this cause, upon motion, it is ordered that the receiver report forthwith and deposit in court all the moneys received in this cause.

And this day came the parties, by their attorneys, and joined issue; whereupon came the following jury, to wit: Stacy B. Lewis, E. O. Lynch, C. P. Herman, W. G. Banks, Thomas M. League, W. G. Davis, N. S. Hill, Geo. B. Innis, John Warren, James Welsh, H.

W. Patrick, and Wm. M. Sergeant, good and lawful men, who being duly elected, tried, and sworn, upon their oath do say, we, the jury, find for the defendants. It is therefore considered by the court that the plaintiff take nothing by his action, and that the defendants do recover of and from the plaintiff their costs by them about their defence in this behalf expended.

And upon motion of defendant, by attorney, it is ordered that the clerk pay over to John H. Bennett, defendant, all the moneys now in court and that may be paid in by the receiver.

Bill of exceptions, filed 5th June, 1848.

THOS. BATES, *Clerk*.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT AND JOHN H. ILLIES. } Trespass to try titles.

Be it remembered that this case came on to be tried, and was submitted to the jury on the pleadings of the parties, and the plaintiff, to maintain and support the issue on his part, offered in evidence a deed of conveyance from the commissioners of the town of Galveston to William Hall, dated on the day of ; A. D. , for lot number nine (9) in block six hundred and twenty-two (622) in the city of Galveston, and the deed of said Hall dated the tenth day of January, A. D. 1844, for the same property; both of which were objected to by the defendants and the objections overruled, and the deeds read, to which the defendant excepted; said first deed is marked "Z", and the second "G", and it is agreed that they shall be here inserted, (.)

And the said plaintiff also offered in evidence the deed of conveyance from the proprietors of the city of Galveston to James S. Holman, dated the fifth day of June, A. D. 1840, for lot No. thirteen, block number six hundred and eighty-one, being proven to be the lot in controversy; which deed is in words and figures following, viz: (here insert it, marked X, among the papers.)

And the said plaintiff also offered in evidence and read to the jury the power of attorney from said Holman to John S. Sydnor, dated the 21st day of July, A. D. 1840, authorizing said Sydnor among other things to convey said lot No. thirteen, in block six hundred [and] eighty one, which said last mentioned instrument is in words and figures following, viz: (here insert it, marked among the papers "W"). And the plaintiff also proved and read in evidence the deed of conveyance from said Holman, by his said attorney in fact, Sydnor, for said premises to Park G. Street, in words and figures following, viz: (here insert it, marked "V.")

And the plaintiff also proved and read in evidence the deed from said Park G. Street to said John S. Sydnor for said lot and block, dated the 6th day of May, A. D. 1848, in words and figures following: (here insert it, marked "U".)

And the plaintiff also proved and read in evidence the deed of said

Sydnor to William Hall, dated the third day of April, 1843, for said lot No. thirteen, in block number six hundred and eighty-one, in words and figures following, viz: (here insert it, marked "T".)

And the plaintiff also proved by said Sydnor that he had in fact bargained and sold said lot to said Hall some time before the date of said conveyance—the witness did not recollect how long; that soon after the sale Hall went into the possession of said lot, and occupied it, having a small house thereon which was washed away by the storm; that afterwards Hall built a large warehouse thereon, which he occupied until his death, since which time the defendant Illies has occupied it; that Hall paid witness for the lot some time before the date of the deed, witness could not say how long, but he thinks as long as six or eight months; witness could not name the exact time; said lot is forty-two feet front by 120 feet deep.

On the cross examination the witness said that by the original bargain and sale Hall was to pay him another lot, but that some difficulty having arisen about the title, he did not get the lot; and Hall afterwards paid the witness in an order on somebody, which was paid; and that witness, being satisfied, made the deed as soon thereafter as Hall demanded it. Witness would have made the deed at any time after the bargain and sale, and taken Hall's obligation for the purchase money. Witness had no personal knowledge of Hall's bankruptcy.

Another witness testified that the storm spoken of by Sydnor, which washed away Hall's house, was in September, A. D. 1842. That Hall was then in possession of the property in dispute, and continued to occupy it until his death; which testimony was fully corroborated by another witness.

The plaintiff, to prove the issue, further on his part offered and read in evidence to the jury (which was objected to by the defendant, and the objection overruled) a record from the United States district court of Louisiana, of said Hall's petition in bankruptcy, certified by the clerk of said court under date of 6th day of May, A. D. 1848, which proceedings are in the words and figures following, viz: (here insert it, marked "T.")

And the plaintiff then offered to read in evidence the deed of conveyance of James Conrad to said Oakey, which deed and the certificate thereon were in words and figures following, viz: (here insert it, "S";) and to the reading of said deed the defendants objected, on the ground that the same was inadmissible and incompetent to prove the transmission of real estate in the Republic of Texas; which objection was by the court sustained, and said deed excluded from the jury; and to the ruling of the court, refusing to allow the said deed to be read as evidence to the jury, the plaintiff at the time excepted, and leave and time was given him to tender his bill of exceptions; and now, to save said first exception of plaintiff, the court orders the said deed to be filed of record, and to be here inserted. (Here insert it.)

And be it further remembered, that the plaintiff offered in evidence a certain other record of the proceedings of the United States district

court of Louisiana, certified by certificate dated the 11th day of July, 1845, and which was recorded in the proper office of the county clerk of Galveston county, which was objected to by the defendant, and the objection overruled, and the same made to the jury in words and figures following, viz: (here insert it, marked "Q," and insert the certificate of record.)

And the plaintiff having here closed his evidence, the defendants offered in evidence the following depositions, and the certificates appertaining thereto, to wit, the deposition of of Alfred Boisblanc, Nathaniel W. Butler, and J. P. Walden; to the reading of which depositions, respectively, the plaintiff objected—

1st. Because there had no commission, rule, or order issued from this court for taking said depositions.

2d. Because they were not taken by any officer authorized by law to take them.

3d. Because the evidence contradicts a record by parol, and is therefore inadmissible.

4th. That the witnesses speak of a certain record, and alterations thereof, but do not produce the same, or a compared copy, in evidence.

5th. That such evidence is inadmissible to contradict, vary, or enlarge a record certified into this court, according to the act of Congress and the Constitution of the United States, but such record is conclusive of all therein certified.

6th. That the evidence is inadmissible to go to the jury on the issue before them.

7th. That such evidence comes too late, because it should have been addressed to the court before the record was read to the jury.

All and singular of which objections were overruled by the court, and the evidence read to the jury, in the words and figures following: (Here insert the captions, depositions, and certificates, respectively marked "O," "N," "M.") And to the overruling of said several objections, and the allowing said several depositions to be read to the jury, the plaintiff at the time excepted; and the court now, while the case is before the jury, seals this second exception by the plaintiff.

And thereupon the defendant offered and read in evidence a transcript of a record of the United [States] district court of Louisiana, under certificate dated the fourth day of March, A. D. 1848, which is in words and figures following, viz: (here insert it, marked "L;") which was all the evidence offered and read in the [case], except a lease from Oakey to Illies, (here insert it, marked "K,") that Illies first rented from Bennett. And the evidence being closed, the plaintiff, by attorney, asked the court to give the jury the following instructions, viz:

The plaintiff requests the court to charge the jury—

1st. That if the jury find, from the evidence, that at the date of Hall's bankruptcy he was seized and possessed of the premises in question, and that, being so possessed, he, Hall, voluntarily applied to the honorable United States district court of Louisiana to be declared a bankrupt, and was in accordance with the act of Congress of 19th

August, 1841, adjudged and decreed by the court to be a bankrupt, such voluntary petition and decree operated to divest and pass Hall's estate in the premises, and vested the property as absolutely in Hall's assignee as he, Hall, might have done by his own voluntary conveyance.

(Which instruction the court gave.)

2d. That if the said assignee, Conrad, so appointed by said court, in execution of the order of said court sold said property to plaintiff for a valuable consideration, such bankruptcy, decree, order, sale, and purchase passed the right of property as effectually to plaintiff as Hall might have by his voluntary deed of conveyance.

(Which second instruction the court refused to give.)

3. That if Hall did petition, and at the time of his petition in bankruptcy surrendered the premises in question as part of his assets, although he only had possession thereof under a purchase by inchoate title, which was afterwards perfected by full grant, such subsequently acquired title enured to the benefit of plaintiff.

(Which third instruction the court refused.)

4. That if the jury find from the evidence that Hall applied to the proper court by his own voluntary petition for the benefit of the act of Congress of the United States of 19th of August, 1841, and obtained a decree of bankruptcy on said voluntary application, that all the property of said Hall, of every kind and nature whatever, real, personal, or mixed, was thereby divested out of said Hall, and vested as fully and effectually in his proper assignee, duly appointed, as the same was previously vested in Hall.

(Which instruction the court gave.)

5. That the act of the United States Congress of 19th August, 1841, was recognised and adopted by the laws of Texas as part of the law of the Republic of Texas.

(And this 5th instruction the court refused to give, saying, that the law of the Republic of Texas referred to recognised the bankrupt's discharge, but did not affect his real estate, and here directs the clerk to insert the law referred to, which is done in words and figures following: (here the clerk will copy the act of the Republic of Texas, approved February, 1841, laws of that year, p. 143, entitled "an act for the relief of those who have taken the benefit of the insolvent laws of other countries."—See page 97, written record.)

6. That if Hall made a voluntary assignment in Louisiana of the premises in question in order to obtain the benefit of the said act of 19th August, 1841, that such assignment was, and is, in point of law, equivalent to a voluntary conveyance made by Hall of said premises to the plaintiff.

(Which instruction the court refused.)

7th. That the transcript of the record marked (A) from the United States district court of Louisiana is competent and conclusive evidence of what it purports to contain and what is recited therein; and that under law said transcript of record is entitled to full faith and credit.

8th. That Bennett is in no better condition in relation to the property in controversy than Hall himself would have been had he been living and the defendant in this suit.

(This charge, the 8th, the court gave.)

As to the 7th instruction asked, the court charged the jury that full faith and credit should be given to the transcript of the record of the court in Louisiana; that is, that it is entited to the same force and efficacy here that it would be entitled to in the court where the transaction was had, and of which it purports to be the record; that in this court, as in that, parol testimony is competent to show, that that which claims to be record is void for forgery.

9. That if the jury believe from the evidence, that after Hall's act of bankruptcy he became a citizen of Texas, Oakey being and remaining a citizen of the United States until the annexation of Texas to the United States, then, by the act of annexation, the property in question became as absolutely Oakey's as though Texas had been one of the United States at the date of the bankruptcy, the act of annexation having, by relation, removed every disability growing out of the laws of the place of the land, and of Oakey's personal right to hold.

(9th refused by the court.)

10. That if the jury believe from the pleadings and evidence that Oakey has derived his title from or through Hall's voluntary act, either of record or by conveyance, and that the defendant, Bennett, only claims as Hall's administrator, and Illies as his tenant, then Bennett is only the personal representative of Hall, and as such a proxy, and as fully and effectually estopped from denying Oakey's title as Hall himself would have been, and that Hall would have been absolutely estopped.

(Refused by the court.)

11. That if the jury find for the plaintiff they may find the rents as damages.

(Which the court gave.)

12. That the act for the relief of persons who have taken the benefit of foreign insolvent laws of Texas, passed February, 1841, (before referred to,) recognises a surrender under a foreign bankrupt law, if honestly made, as a valid and legal mode of transferring the bankrupt's real estate lying in Texas.

(Which the court refused.)

12. That Oakey is vested with all the rights that were vested in Conrad by virtue of his due appointment as assignee of Hall.

(And this twelfth instruction the court refused to give.)

And to the failure and refusal of the court to give the instructions hereinbefore asked, and by the court refused as noted, and to the giving the said several instructions not asked, which by the court were given as hereinbefore set forth, the said plaintiff at the time excepted.

And now, for the purpose of saving the said several exceptions taken, as well as to set forth the whole facts of the case, the court seals this

bill of exceptions, and orders the same to be filed and made a part of the record, which is done 5th June, 1848.

JOHN C. WATROUS, [L. S.]
U. S. Judge.

No. 337.—"Z."

Filed 30th April, 1847. THOS. BATES, *Clerk.*

REPUBLIC OF TEXAS,
County of Galveston.

This indenture, made and entered into this nineteenth day of January, in the year one thousand eight hundred and forty-three, between James Love, Levi Jones, and Samuel M. Williams, the board of directors of the Galveston City Company on the one part, and William Hall, of the other part, witnesseth: That the said directors as aforesaid, having by their acknowledged agent heretofore held a sale at public auction of lots in the city of Galveston, at and before which sale it was proclaimed and made known that "the blocks or squares represented in the plan of said city were of the dimensions of three hundred feet by two hundred and sixty feet, with an alley of twenty feet wide in the centre, and were divided into fourteen lots each, the numeration of which commenced with lot number one, at the northwest corner of every block, and was continued on the north front up to the number seven; and on the south front from east to west, from number eight to fourteen; each lot having a front of forty-two feet ten inches, with a depth of one hundred and twenty feet, except lots numbers one and fourteen, which have each forty-three feet front; and that the said company expressly reserved to itself the right of laying out other lots and squares with streets and alleys on the north front of the city up to the channel of the bay, in conformity with the general plan exhibited at the sale;" and the said William Hall, having become the purchaser of the lot hereinafter described, the directors as aforesaid do hereby, for and in consideration of the sum of one thousand ($1,000) dollars, to their agent paid by the said William Hall, the receipt whereof is hereby acknowledged, and by virtue of the rights and powers in them vested as such board of directors of the Galveston City Company, have bargained, sold, and conveyed, and, by these presents, do bargain, sell, and convey, unto the said William Hall, his heirs and assigns, all that certain lot or parcel of land situate, lying, and being in the city and county of Galveston, and Republic of Texas, and known, designated, and described in the plan of said city as lot number nine, (9,) in block six hundred and twenty-two, (622.)

To have and to hold the above described lot or parcel of land, together with all and singular the hereditaments and appurtenances belonging, unto the said William Hall, his heirs and assigns, forever; and the said board of directors of said Galveston City Company as aforesaid, hereby covenant, to and with the said William Hall, to warrant and forever defend the above described lot or parcel of land to him, his heirs,

8th. That Bennett is in no better condition in relation to the property in controversy than Hall himself would have been had he been living and the defendant in this suit.

(This charge, the 8th, the court gave.)

As to the 7th instruction asked, the court charged the jury that full faith and credit should be given to the transcript of the record of the court in Louisiana; that is, that it is entited to the same force and efficacy here that it would be entitled to in the court where the transaction was had, and of which it purports to be the record; that in this court, as in that, parol testimony is competent to show, that that which claims to be record is void for forgery.

9. That if the jury believe from the evidence, that after Hall's act of bankruptcy he became a citizen of Texas, Oakey being and remaining a citizen of the United States until the annexation of Texas to the United States, then, by the act of annexation, the property in question became as absolutely Oakey's as though Texas had been one of the United States at the date of the bankruptcy, the act of annexation having, by relation, removed every disability growing out of the laws of the place of the land, and of Oakey's personal right to hold.

(9th refused by the court.)

10. That if the jury believe from the pleadings and evidence that Oakey has derived his title from or through Hall's voluntary act, either of record or by conveyance, and that the defendant, Bennett, only claims as Hall's administrator, and Illies as his tenant, then Bennett is only the personal representative of Hall, and as such a proxy, and as fully and effectually estopped from denying Oakey's title as Hall himself would have been, and that Hall would have been absolutely estopped.

(Refused by the court.)

11. That if the jury find for the plaintiff they may find the rents as damages.

(Which the court gave.)

12. That the act for the relief of persons who have taken the benefit of foreign insolvent laws of Texas, passed February, 1841, (before referred to,) recognises a surrender under a foreign bankrupt law, if honestly made, as a valid and legal mode of transferring the bankrupt's real estate lying in Texas.

(Which the court refused.)

12. That Oakey is vested with all the rights that were vested in Conrad by virtue of his due appointment as assignee of Hall.

(And this twelfth instruction the court refused to give.)

And to the failure and refusal of the court to give the instructions hereinbefore asked, and by the court refused as noted, and to the giving the said several instructions not asked, which by the court were given as hereinbefore set forth, the said plaintiff at the time excepted.

And now, for the purpose of saving the said several exceptions taken, as well as to set forth the whole facts of the case, the court seals this

bill of exceptions, and orders the same to be filed and made a part of the record, which is done 5th June, 1848.

JOHN C. WATROUS, [L. S.]
U. S. Judge.

No. 337.—"Z."

Filed 30th April, 1847. THOS. BATES, *Clerk.*

REPUBLIC OF TEXAS,
County of Galveston.

This indenture, made and entered into this nineteenth day of January, in the year one thousand eight hundred and forty-three, between James Love, Levi Jones, and Samuel M. Williams, the board of directors of the Galveston City Company on the one part, and William Hall, of the other part, witnesseth: That the said directors as aforesaid, having by their acknowledged agent heretofore held a sale at public auction of lots in the city of Galveston, at and before which sale it was proclaimed and made known that "the blocks or squares represented in the plan of said city were of the dimensions of three hundred feet by two hundred and sixty feet, with an alley of twenty feet wide in the centre, and were divided into fourteen lots each, the numeration of which commenced with lot number one, at the northwest corner of every block, and was continued on the north front up to the number seven; and on the south front from east to west, from number eight to fourteen; each lot having a front of forty-two feet ten inches, with a depth of one hundred and twenty feet, except lots numbers one and fourteen, which have each forty-three feet front; and that the said company expressly reserved to itself the right of laying out other lots and squares with streets and alleys on the north front of the city up to the channel of the bay, in conformity with the general plan exhibited at the sale;" and the said William Hall, having become the purchaser of the lot hereinafter described, the directors as aforesaid do hereby, for and in consideration of the sum of one thousand ($1,000) dollars, to their agent paid by the said William Hall, the receipt whereof is hereby acknowledged, and by virtue of the rights and powers in them vested as such board of directors of the Galveston City Company, have bargained, sold, and conveyed, and, by these presents, do bargain, sell, and convey, unto the said William Hall, his heirs and assigns, all that certain lot or parcel of land situate, lying, and being in the city and county of Galveston, and Republic of Texas, and known, designated, and described in the plan of said city as lot number nine, (9,) in block six hundred and twenty-two, (622.)

To have and to hold the above described lot or parcel of land, together with all and singular the hereditaments and appurtenances belonging, unto the said William Hall, his heirs and assigns, forever; and the said board of directors of said Galveston City Company as aforesaid, hereby covenant, to and with the said William Hall, to warrant and forever defend the above described lot or parcel of land to him, his heirs,

and assigns, against all persons whatever, claiming or to claim the same, or any part thereof, by, through, or under them.

In witness whereof the said directors have hereunto set their hands and seals the day and year first above written.

JAMES LOVE, [SEAL.]
LEVI JONES, [SEAL.]
SAMUEL M. WILLIAMS. [SEAL.]

REPUBLIC OF TEXAS, *county of Galveston*.

This day personally appeared before me, Oscar Farish, clerk of Galveston county court, James Love, Levi Jones, and Samuel M. Williams, directors of the Galveston City Company, who acknowledge the foregoing instrument of writing to be their act and deed as directors aforesaid, for the purposes therein confessed and contained.

Given under my hand this 27th day of April, 1843.

Teste: OSCAR FARISH, *C. C. G. C.*

Filed May the 4th, 1843, at 9, A M., and recorded same day at 3, P. M., book "C," pages 153 and 154.

OSCAR FARISH, *C. C. G. C.*

"G."

This indenture, made and entered into this tenth day of January, A. D. one thousand eight hundred and forty-four, between William Hall, of the county of Galveston, and Republic of Texas, of the first part, and Henry Hubbell, of said county and republic, of the second part, witnesseth: That the said William Hall, for and in consideration of the sum of one hundred and fifty dollars, (150_{100}^{00}$,) to him in hand paid, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, and conveyed, unto the said Henry Hubbell, his heirs and assigns, all his right, title, and interest in and to a certain piece of property, lying in the city of Galveston, known and designated as lot No. nine, (9,) in block six hundred and twenty-two, (622); for a more particular description of which reference may be had to the map of said city.

To have and to hold the said lot, with all its privileges and appurtenances thereto belonging, to him, the said Henry Hubbell, his heirs and assigns, forever. And the said William Hall doth hereby covenant and agree, to and with the said Henry Hubbell, his heirs and assigns, to convey and make, and by these presents do convey and make, to him, the said Henry Hubbell, as good and perfect a title as emanated from the Galveston City Company, free and clear from all liens, judgments, liabilities, or incumbrance of any kind, whatever.

In witness whereof the parties to these presents have hereunto set their hands and affixed their scrolls in lieu of a seal, the day and year first above written.

WM. HALL. [L. S.]

Signed, sealed, and delivered in presence of—
W. J. GOURLAY,
J. M. LEHHFERO.

This day personally appeared before me W. J. Gourlay, who being duly sworn acknowledged that the foregoing instrument was signed in his presence.

Given under my hand this tenth day of January, 1844.

Teste: OSCAR FARISH, *C. C. G. C.*
Per J. M. ALLEN.

Filed January 10th, 1844, at 11, A. M.; recorded same time in book "*C*," page 403.

OSCAR FARISH, *C. C. G. C.*
Per J. M. ALLEN, *D. C. G. C.*

X.

Recorded 8th June, 1840. Filed 30th April, 1847.
THOS. BATES, *Clerk*.

REPUBLIC OF TEXAS, *county of Galveston*.

This indenture, made and entered into this fifth day of June, in the year one thousand eight hundred and forty, between M. B. Menard, Thomas F. McKinney, Levi Jones, Peter J. Menard, and Mosely Baker, the board of directors of the Galveston City Company, of the one part, and James S. Holman, of the other part, witnesseth: That the said directors as aforesaid having, by their acknowledged agent, heretofore held a sale at public auction of lots in the city of Galveston, at and before which sale it was proclaimed and made known that "the blocks and squares represented in the plan of said city, and of the dimensions of three hundred feet by two hundred and sixty feet, with an alley of twenty feet wide in the centre, and were divided into fourteen lots each, the numeration of which commenced with lot number one at the north-west corner of every block, and was continued on the north front up to the number seven, and the south front from east to west, from number eight to fourteen, each lot having a front of forty-two feet ten inches, with a depth of one hundred and twenty feet, except lots numbers one and fourteen, which have each forty-three feet front; and that the said company expressly reserved to itself the right of laying out other lots and squares, with street and alleys, on the north front of the city up to the channel of the bay, in conformity with the general plan exhibited at the sale;" and the said James S. Holman having become the purchaser of the lots hereinafter described, the directors as aforesaid do hereby, for and in consideration of the sum of five thousand four hundred and twenty-five dollars, to their agent paid by the said James S. Holman, the receipt whereof is hereby acknowledged, and by virtue of the right and powers in them vested as such board of directors of the Galveston City Company, have bargained, sold, and conveyed, and by these presents do bargain, sell, and convey, unto the said James S. Holman, his heirs and assigns, all those certain lots or parcels of land situate, lying, and being in the city and county of Galveston, and Republic of Texas, and known, designated, and described in the plan of said city as lots numbers twelve and thirteen, (12 and 13,) in block six hundred and eighty-

one, (681); lot number thirteen, (13,) in block six hundred and seventy-one, (671); lot number thirteen, (13,) in block four hundred and ninety-six, (496.)

To have and to hold the above described lots or parcels of land, together with all and singular the hereaditaments and appurtenances belonging, unto the said James S. Holman, his heirs and assigns, forever; and the said board of directors of said Galveston City Company as aforesaid hereby covenant, to and with the said James S. Holman, to warrant and forever defend the above described lots or parcels of land to him, his heirs and assigns, against all persons whatever, claiming or to claim the same, or any part thereof, by, through, or under them.

In witness whereof the said M. B. Menard, Thomas F. McKinney, Levi Jones, Peter J. Menard, and Mosely Baker, have hereunto set their hands and seals the day and year first above written.

M. B. MENARD, [SEAL.]
THOMAS F. McKINNEY, [SEAL.]
LEVI JONES, [SEAL.]
P. J. MENARD. [SEAL.]
G. BORDEN, JR., *Agent*.

REPUBLIC OF TEXAS, *county of Galveston*.

This day personally appeared before me, Oscar Farish, clerk of Galveston county court, M. B. Menard, Thomas F. McKinney, Levi Jones, and Peter J. Menard, directors of the Galveston City Company, who acknowledged the foregoing instrument of writing to be their act and deed as directors aforesaid, for the purposes therein confessed and contained.

Given under my hand this the 8th day of June, 1840.

Teste: OSCAR FARISH, *C. C. G. C.*

REPUBLIC OF TEXAS, *county of Galveston*.

I, Oscar Farish, clerk of Galveston county court, do hereby certify, that the foregoing conveyance from the Galveston City Company to James S. Holman, the authentication thereto, the time of filing and recording the same, *and* true copies from the records of my office, record book B, No. 1, pages 463, 464.

[SEAL.] Given under my hand this 4th day of August, 1845, and seal of county court.

Teste: OSCAR FARISH, *C. C. G. C.*

W.

Filed 30th April, 1847. THOS. BATES, *Clerk*.

REPUBLIC OF TEXAS, *Harris county*.

Know all men by these presents, that I, James Holman, of the county and republic aforesaid, do hereby constitute, nominate, and appoint, John S. Sydnor, of the city and county of Galveston, my true and lawful attorney for me and in my name and behalf to sell and convey the following described lots in the said city of Galveston, namely: lots No. 12 and 13, in block 681; lot No. 13, in block 496; and lot

No. 9, in block 312; hereby binding myself, my heirs, &c., to ratify and confirm all the acts which my said attorney may lawfully do in the sale and conveyancing of the above named four lots, as fully and effectually, to all intents and purposes, as I could do if personally present.

Given under my hand and seal in the city of Houston, county and republic first herein named, this 21st day of July, 1840.

JAMES S. HOLMAN. [L. S.]

Witness—G. W. ADAMS,
A. G. DUKSON.

REPUBLIC OF TEXAS, *county of Harris.*

Before me, William Fairfax Gray, a notary public, in and for the county of Harris aforesaid, duly commissioned and sworn, this day personally came and appeared James S. Holman, whose name is subscribed to the foregoing letter of attorney, and acknowledged the same to be his act and deed for the purposes therein contained and set forth.

To certify which I hereunto subscribe my name, and affix the impress of my official seal, at the city of Houston, this the 12th [L. S.] day of July, A. D. 1840, and of the independence of Texas fifth.

W. F. GRAY, *Notary Public.*

Filed 26th January, 1841, at 4 P. M.
Recorded 28th January, 1841, at 9½ A. M.

REPUBLIC OF TEXAS, *county of Galveston.*

The foregoing instrument of writing from Holman to Sydnor, the authentication thereto, the time of filing and recording the same, are true copies from the records of my office, record [book] B, No. 1, page 113.

In witness whereof I, Oscar Farish, clerk of the Galveston county court, do hereto subscribe my name and affix the [SEAL.] seal of my office, this the 4th day of August, 1845.

Teste: OSCAR FARISH, *C. C. G. C.*

V.

This indenture, made this 2d day of April, 1841, between John S. Sydnor, attorney for James S. Holman, of the county of Galveston and Republic of Texas, of the one part, and Parke G. Street, of the city of Galveston and aforesaid republic, of the other part, witnesseth: That the said John S. Sydnor, for and in consideration of the sum of three thousand dollars, Texas treasury notes, to him in hand paid by the said Parke G. Street, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, and conveyed, and by these presents doth grant, bargain, sell, and convey, unto the said Parke G. Street, his heirs and assigns, the following lot in the city of Galveston, to wit, lot number thirteen, (13,) in block six hundred and eighty-one, (681,) agreeably to the map of said city.

To have and to hold the said lot with all appurtenances thereto be-

longing, to him, the said Park G. Street, his heirs and assigns, and to the only proper use and behoof of the said Park G. Street, his heirs and assigns, forever. And the said John S. Sydnor, by the power vested in him as attorney for James S. Holman, hereby covenants and agrees, with the said Park G. Street, his heirs and assigns, the said lot with all its appurtenances, unto the said Park G. Street, his heirs and assigns, against him, the said Holman and his heirs, shall and will by these presents forever covenant and defend.

In witness whereof the said John S. Sydnor has hereunto set his hand and affixed his seal, the day and year first herein written.

JAMES S. HOLMAN,
By J. S. SYDNOR, *Attorney*. [SEAL.]

Signed, sealed, and delivered, in presence of—

Six hundred and eighty-one, interlined before signing and acknowledgment of this deed, and four hundred and ninety-six erased.

JAMES S. HOLMAN.
By J. S. SYDNOR, *Attorney*.

This day J. S. Sydnor, the signer and sealer of the within instrument, appeared before me and acknowledged the same to be his act and deed for the purposes therein set forth, and that he erased the words "four hundred and ninety-six (496)" and interlined the words and figures "six hundred and eighty-one (681)" before signing.

Given under my hand this 3d of April, 1841.

Teste: OSCAR FARISH, *C. C. G. C.*

Filed 3d April, 1841, at 10, A. M.; recorded same day, at 11, A. M.

REPUBLIC OF TEXAS, *county of Galveston*.

I, Oscar Farish, clerk of the county court of the county aforesaid, do hereby certify, that the foregoing conveyance from Sydnor to Street, the authentication thereto the time of filing and registering the same, are true copies from the records of my office, book B, No. 1, pages 214 and 215.

[L. S.] Witness my hand and the seal of the county court, this the 4th day of August, 1845.

Teste: OSCAR FARISH, *C. C. G. C.*

"U."

Filed 30th April, 1847.

THOS. BATES, *Clerk*.

REPUBLIC OF TEXAS, *county of Galveston*.

This indenture, made this sixth day of May, in the year of our Lord one thousand eight hundred and forty-one, between Park G. Street, of the county of Galveston, of one part, and John S. Sydnor, of Galveston county, of the other part, witnesseth: That the said Park G. Street, for and in consideration of the sum of four thousand dollars, to him by the said John S. Sydnor in hand paid, the receipt whereof the said Park G. Street doth hereby acknowledge, hath granted, bargained, sold,

and conveyed, and by these presents doth grant, bargain, sell, and convey, unto the said John S. Sydnor, his heirs and assigns, two certain parcels of land, to wit, lot number thirteen, in block number six hundred and eighty-one (681,) and lot number five (5,) in block number five hundred and four (504,) with the buildings and improvements thereon, for a more particular description of which lots reference may be had to the plan of said city of Galveston; to have and to hold the said lots, with the appurtenances thereto belonging, to him, the said John S. Sydnor, his heirs or assigns, and to the only proper use and behoof of the said John S. Sydnor, his heirs and assigns, forever; and the said Park G. Street, his heirs, executors, and administrators, doth hereby covenant and agree, to and with the said John S. Sydnor, his heirs and assigns, that he, the said Park G. Street, and his heirs, shall and will by these presents forever warrant and defend, against me or any person claiming through or by me. In witness whereof the said Park G. Street hath hereunto set his hand and affixed his seal, the day and year first herein written. P. G. STREET. [L. S.]

Signed, sealed, and delivered in presence of—the interlineation on fifth line above this, made before signing this instrument.

A. P. UFFORD,
P. G. MERRITT.

REPUBLIC OF TEXAS, *county of Galveston.*

Personally came and appeared, this 7th day of May, 1841, before me, Robert D. Johnson, chief justice and ex officio notary public in and for the county aforesaid, P. G. Street, who acknowledged the foregoing to be his act and deed for the purposes in the same set forth, the words "against me, or any other person claiming through or by me," were interlined before signing.

To certify which as authentic, I grant these presents under my hand and seal of office, at Galveston, day and date above written. [L. S.]

R. D. JOHNSON,
Chief justice and ex officio notary puplic.

I, Oscar Farish, clerk of the county court in and for the county of Galveston, do hereby certify, that the foregoing instrument from Street to Sydnor, the authentication thereto, the time of filing and recording the same, are true copies from the records of my office, record "B, No. 1," pages 276 and 277.

In witness whereof I hereto subscribe my name and affix the seal of the county court aforesaid, this 4th day of August, 1845. [L. S.]

Teste: OSCAR FARISH, *C. C. G. C.*

"T."

Filed 23d May, 1848.

THOS. BATES, *Clerk.*

UNITED STATES OF AMERICA.

In bankruptcy.

Petition by debtor for benefit of the act of Congress.

To the honorable the judge of the United States district court, for the eastern district of Louisiana:

Respectfully represents William Hall, (late of Galveston, Texas,) in the parish of Orleans, and State of Louisiana, that he is owing debts in his private right and capacity, William Hall & Co., and Hall & Todd, to sundry creditors; a list of whose names and places of residence, and the amount due to each, according to the best of his knowledge and belief, is contained in the schedule hereto annexed, marked "A," and that the annexed schedule marked B, contains an accurate inventory of his property, rights and credits, of every name, kind, and description, and of the location and situation of each and every parcel thereof; that he is unable to meet his debts and engagements, and he, therefore, applies to this honorable court for the benefit of the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," and prays that, after due proceedings had, he may be declared by a decree of the court to be a bankrupt within the purview of the said act; and upon his compliance with all the requisitions of said act; and all the orders and directions of the court in the premises, that he may be decreed to have a certificate of discharge from all his debts provable under the said act, and otherwise entitled to all the benefits thereof.

(Signed) WM. HALL.

On this ninth day of February, A. D. 1843, sworn to by the petitioner, before me,

(Signed) W. J. VASON,
Commissioner of the said court, &c.

Order of the court thereon.

UNITED STATES DISTRICT COURT,
Eastern district of Louisiana.

On this ninth day of February, A. D. 1843, upon reading the foregoing petition, it is ordered by the court, that notice thereof be published in two newspapers printed in the district at least twenty days before the 10th day of March, when a hearing will be had on the said petition at this court room, within the said district, at 10 o'clock in the forenoon, so that persons interested may appear at the said time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

(Signed) JAMES R. JENNINGS,
Deputy clerk of the court.

UNITED STATES DISTRICT COURT,
Eastern district of Louisiana.

In bankruptcy, March 10th, 1848.

Present, Hon. T. H. McCaleb.

In the matter of the petition of William Hall to be declared a bankrupt.

The petition and proofs having been inspected and considered by the court, and being found in conformity with the requirements of the acts of Congress, it is therefore ordered, that William Hall, of New Orleans, individually, and as a member of the commercial firm of Wm. Hall & Co., and of Hall & Todd, be, and he is hereby, declared and decreed a bankrupt, pursuant to the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," passed August 19, 1841.

It is further ordered, that F. B. Conrad, of New Orleans, be, and he accordingly is, hereby appointed assignee of the estate of the said bankrupt; and that the said F. B. Conrad give security, in a bond to the United States, with two sufficient sureties, to be approved by the court, in the sum of ten dollars, conditioned for the due and faithful discharge of all his duties as such assignee, and his compliance with the orders and directions of the court.

(Signed) THEO. H. McCALEB, *U. S. Judge.*

UNITED STATES DISTRICT COURT,
Clerk's office, May 6th, 1848.

I, N. R. Jennings, clerk of the district court of the United States, for the district of Louisiana, holding its sessions at New Orleans, do hereby certify, that the two and three-quarter pages preceding this my certificate comprise a true and faithful copy of the original petition of William Hall for benefit of the act of Congress, the order of the court on said petition, and the decree rendered thereon at the sitting of the court on the tenth day of March, A. D. 1843, all of record in my office.

[L. S.] Witness my hand and the seal of the court, this ninth day of May, A. D. 1848, and the 72d year of American independence.

N. R. JENNINGS, *Clerk.*

I, Theodore Howard McCaleb, judge of the district court of the United States, for the district of Louisiana, do hereby certify, that Needler R. Jennings, who signed the foregoing certificate, was, at the time of so signing his name, and is now, the clerk of the district court of the United States for the district of Louisiana; that faith and credit are due and ought to be given to his attestations as such; and that the above certificate is in due form of law.

[L. S.] As witness my hand and seal, at New Orleans, this sixth day of May, A. D. 1848, and the 72d year of American independence.

THEO. H. McCALEB, [L. S.]
U. S. Judge.

"S."

Deed.

This indenture, made and entered into this eighteenth day of June, A. D. 1845, between Francis B. Conrad, of the first part, acting as assignee in bankruptcy in the case No. 710, William Hall, bankrupt, and according to the judgment, decrees, and orders in said case in the United States district court, eastern district of Louisiana, and Samuel W. Oakey, of the other or second part hereof, witnesseth: That the said Francis B. Conrad as aforesaid, having, by judgment and decree of the court aforesaid, in the matter of the petition, filed 9th February, 1843, of William Hall to be declared a bankrupt, (voluntary;) and the said Francis B. Conrad was decreed and appointed the assignee in said case of all and singular of every species of property of said William Hall, bankrupt, which he possessed on said 9th February, 1843, or had in any right, title, or interest, whether of real or of personal estates or property, as appears by the following recited copy and certificate of proceedings, viz:

"UNITED STATES DISTRICT COURT,
Eastern district of Louisiana.

"Sitting in bankruptcy, 10th March, A. D. 1843.

"Present, honorable Theo. H. McCaleb, judge.

"In the matter of the petition of William Hall to be declared a bankrupt, No. 710.

"The petition and proofs having been inspected and considered by the court, and being found in conformity with the requirements of the act of Congress, it is therefore ordered, that William Hall, late of Galveston, Texas, individually, and as member of the commercial firms of William Hall & Co. and Hall & Todd, be, and is hereby, declared and decreed a bankrupt, pursuant to the act of Congress, entitled 'An act to establish a uniform system of bankruptcy throughout the United States,' passed 19th August, 1841. It is further ordered, that Francis B. Conrad, of the city of New Orleans, be, and he accordingly is, hereby appointed assignee of the estate of said bankrupt; and the said Francis B. Conrad give security, in a bond to the United States, with two sufficient sureties, to be approved by the court, in the sum of ten dollars, conditioned to the due and faithful discharge of all his duties as such assignee, and his compliance with the orders and directions of the court. And it is furthermore ordered, that the clerk do certify and cause to be delivered the order to the said assignee."

And the said William Hall, bankrupt, at the time he filed his petition in said court to be declared a bankrupt, and at the time, said 10th March, 1843, when he was declared and decreed a bankrupt, was possessed of a claim to a house and lots in the city of Galveston, the exact nature of which the said Francis B. Conrad, assignee as aforesaid, could not obtain any exact knowledge or description; which claim, whether it was one or in plurality, on a house or houses, building or buildings,

more or less in number, of lots, parcel or parcels of land, be they what they were, situated in the city of Galveston, Republic of Texas, were by said act of Congress, and the decrees of said court on said bankrupt's petition, viz., all the property, and rights of property, of every name and nature, and whether real, personal, or mixed, became, by the mere operation of said act thus made and provided, ipso facto from the time of such decree aforesaid, *were* deemed to be divested out of such bankrupt, without any other act, assignment, or conveyance whatsoever, and the same became vested by force of the same in Francis B. Conrad, assignee as aforesaid. All of which rights of property, or real estate, whatever might be the nature of his title thereto, or interest therein, which was situated in the city of Galveston, Republic of Texas, it was my intention to sell, as assignee as aforesaid, at public auction; and the said court, on considering my petition to that effect, made judgment thereon, and issued an order of sale under date of 23d May, 1845; and, by virtue of said order of sale by said court, and after due and lawful advertisement made by William F. Wagner, United States marshal for the district, and at the time and place designated in said advertisement, at the hour of 12, noon, on this 18th day of June, A. D. 1845, the said marshal did, under my direction, then and there publicly cry, adjudicate, and sell to Samuel W. Oakey, the last and highest bidder, as follows: "viz., all the right, title, and interest of the said bankrupt (William Hall) in and to a house and lots in the city of Galveston, Texas, being lot 13, block 681, or lot 9, block 622, or both," and sold without any guarantee whatever. The said Samuel W. Oakey became the purchaser for the price and sum of four hundred dollars, the receipt of which is hereby, as it already has been, acknowledged. In consideration thereof I, the said Francis B. Conrad, assignee as aforesaid, have bargained, sold, conveyed, assigned, transferred, set over, and delivered, and by these presents do bargain, sell, convey, assign, transfer, set over, and deliver, to said Samuel W. Oakey, the party of the second part, "all rights, title, and interest of the bankrupt (William Hall) in and to a house and lots in the city of Galveston, Texas, being lot 13, in block 681, or lot 9, in block 622, or both;" which, by virtue of the decrees of said court under said act of Congress, *which* became ipso facto divested out of said bankrupt and vested in me as assignee, whether the said property or rights of property be found to be lot (No. 9) number nine, in block six hundred and twenty-two, or lot (No. 13) number thirteen, in block six hundred and eighty one, or both, and thus designated on the map of the Galveston City Company, or both of said lots, together with any buildings thereon, and all rights, privileges, advantages, heraditaments, and appurtenances thereunto belonging or in anywise appertaining, unto the said Samuel W. Oakey; to have and to hold the same unto him and his heirs forever, with all the rights of said bankrupt (William Hall) to call in his or any previous vendor or vendors, in warranty, against all or any person or persons whatsoever, claiming or to claim, or of any part thereof. It is hereby expressly understood that I, Francis B. Conrad, according to the conditions an-

nounced at the sale, *that I* sign these presents without any warranty whatever. This conveyance is made by me, as assignee, by virtue of the United States marshal's adjudication under order of court, and without recourse on me personal or official.

In witness whereof the said Francis B. Conrad, assignee as aforesaid, has hereunto set his hand and seal the day and year first above written.

The words "or both," herein interlined and approved; the "court," interlined, approved. Witnesses.

F. B. CONRAD, [SEAL.]
Assignee.

CITY OF NEW ORLEANS, *State of Louisiana:*

On this thirtieth April, one thousand eight *hund* and forty-six, personally came and appeared before me, Thomas Slidell, one of the associate justices of the supreme court of the State of Louisiana, the aforenamed Francis B. Conrad, who in my presence acknowledged that he had signed and sealed the foregoing instrument of writing as his act and deed, and for the uses and purposes therein mentioned, and had delivered the same to the party therein named.

THOMAS SLIDELL, [SEAL.]
F. B. CONRAD, [SEAL.]
Assignee.

UNITED STATES OF AMERICA,
State of Louisiana:

By Isaac Johnson, governor of the State of Louisiana.

These are to certify, that Thomas Slidell, whose name is subscribed to the instrument of writing herein annexed, is now, and was at the time of his signing the same, one of the associate justices of the supreme court of the State of Louisiana; that his signature is genuine; and that all his official acts as such are entitled to full faith and credit.

Given at New Orleans, under my hand and the seal of the State, this thirtieth day of May, one thousand eight hundred and forty-
[SEAL.] six, and of the independence of the United States the seventieth.

By the governor: ISAAC JOHNSON,
CHARLES GAYARRE,
Secretary of State.

STATE OF TEXAS, *county of Galveston:*

The annexed instrument of writing, executed by F. A. Conrad, assignee, (Wm. Hall,) with the authentication thereto filed for record, June 11, 1846, at 10 A. M., and recorded same day at 5 P. M., book F, pages 171, 172, and 173.

Witness Oscar Farish, county clerk and recorder for Galveston county,
[SEAL.] and State of Texas, and seal of said county court, June 11, 1846.

Teste: OSCAR FARISH, *C. C. G. C.*

Extracts from the bankrupt proceedings of William Hall, No. 710.

[SEAL.]

UNITED STATES DISTRICT COURT,
For the district of Louisiana.

Petition to be declared a bankrupt filed February 9, 1843.

UNITED STATES OF AMERICA.

In bankruptcy.

Petition by debtor for benefit of the act of Congress.

To the honorable the judge of the United States district court, for the eastern district of Louisiana.

Respectfully represents, William Hall, (late of Galveston, Texas,) in the parish of Orleans, and State of Louisiana, that he is owing debts in his private right and capacity, William Hall & Co. and Hall and Todd, to sundry creditors—a list of whose names and places of residence, and the amount due to each, according to the best of his knowledge and belief, is contained in the schedule hereto annexed, marked "A;" and that the annexed schedule, marked B, contains an accurate inventory of his property, rights, and credits, of every name, kind, and description, and of the location and situation of each, and every parcel and portion thereof; that he is unable to meet his debts and engagements, and he, therefore, applies to this honorable court for the benefit of the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," and prays that, after due proceedings had, he may be declared by a decree of the court to be a bankrupt within the purview of the said act; and upon his compliance with all the requisitions of the said act, and all the orders and directions of the court in the premises, that he may be decreed to have a certificate of discharge from all his debts provable under the said act, and otherwise entitled to all the benefits thereof.

(Signed) WILLIAM HALL.

On this ninth day of February, A. D. 1843, sworn to by the petitioner before me.

(Signed) W. J. VASIN,
Commissioner of the said court, etc., etc.

Order of the court thereon.

UNITED STATES DISTRICT COURT,
Eastern district of Louisiana.

On the ninth day of February, A. D. 1843, upon reading the foregoing petition, it is ordered by the court, that notice thereof be published in two newspapers printed in the district, at least twenty days before the

10th day of March, when a hearing will be had on the said petition, at this court room, within the said district, at 10 o'clock in the forenoon, so that persons interested may appear at the said time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

(Signed) JAMES R. JENNINGS,
D'y Clerk of the Court.

Copy B.

Schedule of assets of William Hall, filed February 9th, 1843.

Assets from the firm of William Hall & Co.

Joseph Porterfield -	Venango, Pa.	Notes and book acc't.	$7,819 66
Conaway & Foreman -	Green co., do.	Book acc't	259 46
J. M. Kelly - -	Armstrong co., do.	do. do.	224 02
Robt. McIlvain - -	do. do. do.	do. do.	140 83
William Karnet - -	Venango do. do.	do. do.	200 00
Jacob Truby - -	do. do. do.	do. do.	79 12
Isaac Merrick - -	do. do. do.	do. do.	246 31
Russel Boley - -	Mercer do. do.	do. do.	274 73
John Shannon - -	Alleghany do. do.	do. do.	72 22
John L. Porter - -	Venango do. do.	do. do.	12 29
Thomas F. Chambers -	Washington co., Pa.	do. do.	6 31
Mrs. Baker - -	Pittsburgh, do.	do. do.	2 42
James Latimer - -	do.	do. do.	11 64
Mrs. McCreedy - -	do.	do. do.	7 00
Thomas McCollough -	do.	do. do.	2 94
Estate of T. Livingston, dec'd - - -	do.	do. do.	60 57
Jonathan Edward -	do.	do. do.	22 58
James McBride - -	do.	do. do.	12 11
Andrew Sloan - -	do.	do. do.	6 55
C. McQuister - -	do.	do. do.	6 94
William Simpson - -	do.	do. do.	8 58
H. L. Osborn - -	do.	do. do.	1 23
Mrs. McCaudlitt - -	do.	do. do.	3 08
John Lattimer - -	do.	do. do.	3 97
Robt. Carothers - -	do.	do. do.	29 29
David Brisbine - -	Ohio,	do. do.	89 54
Henry Baugher - -	Venango do. Pa.	do. do.	49 72
Andrew McCaslin -	do do.	do. do.	57 19
Doctor Johnston - -	Pittsburgh do. do.	do. do.	6 83
John Hamilton - -	do.	do. do.	79 30
E. H. Morrison - -	do.	do. do.	46 55

Assets of William Hall & Co.—Continued.

Ira Avery - -	Pittsburgh, Pa.	Book acc't	$17 06
Wm. B. Smith - -	do.	do. do.	5 00
J. R. Kerr - -	do.	do. do.	9 06
Doctor Smith - -	do.	do. do.	5 00
Charles McElroy - -	do.	do. do.	12 00
Robt. Martin - -	do.	do. do.	53 62
Wm. Seily - -	do.	do. do.	13 63
Robt. McElheny - -	Allegany co., Pa.	do. do.	165 11
Wm. B. Foster - -	do. do. do.	do do.	112 01
Scott & Kinkead - -	Pittsburgh, do.	do. do.	69 90
John Drenin - -	do.	do. do.	17 26
Doct. S. Erwin - -	do.	do. do.	26 71
P. Keough - -	do.	do. do.	19 26
Bell, Moore & Co. -	Steubenville, Ohio,	do. do.	68 28
H. Forward - -	Pittsburgh, Pa.	do. do.	4 70
William Woods - -	Indiana co., Pa.	Notes,	532 80
C. P. James - -	Pittsburgh	Acc't,	64 95
L. Morrison - -	do.	do.	7 00
Thos. McCollough -	do.	do.	2 21
George McKee - -	do.	do.	47 38
Goodwin Mead - -	do.	do.	27 47
Wm. Craig - -	do.	do.	33 00
Wm. R. Colwell -	do.	do.	9 68
Sam'l Brink - -	Armstrong co., Pa.	do.	1,088 77
H. L. Strong - -	Pittsburgh, Pa.	do.	23 83
John Sloan - -	do. do.	do.	9 27
John S. Gardner -	Venango, do.	do.	22 45
John McCornal - -	Armstrong co., do.	do.	5 68
John Clever - -	do. do.	do.	21 44
Doct. Neal - -	Pittsburgh, do.	do.	33 96
Isaac Harris - -	do. do.	do.	26 56
Jas. Taylor - -	do. do.	do.	8 88
Simeon Truby - -	Armstrong co. do.	do.	15 75
C. C. Hamilton - -	Pittsburgh,	do.	39 92
S. Shenden - -	do. do.	do.	6 62
			$12,466 77

Assets of William Hall.

Accounts and due him.			
Steamboat Philadelphia	Lost	Account,	$204 63
Wm. M. Price - -	N. O.	do.	10 08
J. S. Able & Co. -	Nacogdoches, Texas,	do.	544 80
Capt. B. F. Hanna -	Texas,	do.	47 22
Parker & Adams -	Houston, Texas,	do.	979 34
George Bryan - -	Jasper co., do.	do.	470 40
Estate of N. Lynch -	Liberty co., do.	do.	238 57
Sessions & Blair - -	Houston, do.	do.	163 27
H. W. Bentick - -	Galveston, do.	do.	202 55
Archibald Frazier -	Bastrop, do.	do.	379 21
C. W. Adams - -	Houston, do.	do.	138 56
L. H. Peters - -	Colorado, do.	do.	243 67
John Ramsey - -	Washington, do.	do.	49 92
Matthew Hopkins -	Galveston, do.	do.	47 07
Capt. Hitchcock - -	do. do.	do.	10 08
Capt. Pillans - -	do. do.	do.	6 75
Capt. Kinsman - -	do. do.	do.	18 83
C. Hildebrant - -	Sabine, do.	do.	21 89
W. L. Crossman -	Galveston, do.	do.	28 86
Wm. L. P. - -	do. do.	do.	82 00
Capt. John Wade, dec'd	do. do.	do.	5 55
Ennis Kimball Holt -	Houston, do. unsettled	ac't, say	100 00

Two drafts drawn by R. S. Neighbors, commissary, in favor of F. W. Geisendorf, on the Republic of Texas, and in hands of J. W. Links, esq., Austin, for collection	823 00
Interest in house and lots, Galveston, value, say (Note—Lot No. 9, square No. 622, or lot 13, block 681, or both)	1,000 00
Interest in a claim against J. M. Robinson, Houston, Texas, about - - - - -	400 00

Signed, WILLIAM HALL.

Decree of bankruptcy, and appointment of assignee.

United States district court, eastern district of Louisiana, sitting in bankruptcy, March 10, 1843.

Present the honorable Theo. H. McCaleb, judge.

In the matter of the petition of William Hall to be declared a bankrupt—No. 710.

The petition and proofs having been inspected and considered by the court, and being found in conformity with the requirements of the act

of Congress; it is therefore ordered that William Hall, individually, and as a member of the commercial firms of William Hall & Co., and of Hall & Todd, be, and is hereby, declared and decreed a bankrupt, pursuant to the act of Congress, entitled "an act to establish a uniform system of bankruptcy throughout the United States," passed August 19, 1841.

It is further ordered, that F. B. Conrad, of the city of New Orleans, be, and he accordingly is, hereby appointed assignee of the estate of the said bankrupt, and that the said F. B. Conrad give security in a bond to the United States, with two sufficient sureties, to be approved by the court, in the sum of ten dollars, conditioned for the due and faithful discharge of all his duties as such assignee; and his compliance with the orders and directions of the court.

And it is furthermore ordered, that the clerk do certify, and cause to be delivered, this order to the said assignee; which said bond was duly filed and approved by the court.

Report of assignee, in the bankruptcy of William Hall. Filed June 17th, 1842.

U. S. district court, in bankruptcy.

The undersigned, assignee of William Hall, the bankrupt, reports to the court that the bankrupt has represented to him that all that portion of his assets stated on his schedule to belong to the firm of Wm. Hall & Co., arise from a commercial firm existing some years ago under that title, in Pittsburg, Penn., of which the bankrupt was a member. That said firm was dissolved in 1839, or the beginning of the year 1840. That at its dissolution the bankrupt left all the books of accounts and all the assets of the firm in the hands of his partner, one Samuel McKilvy, who took charge of the liquidation and settlement of the concern; and that the bankrupt has had nothing to do with them since. The assignee has been informed by the bankrupt that all those assets are worthless. That as regards all that portion of assets under the title of William Hall, the same arises from business of the bankrupt in this city and Texas since 1840. That the books relating thereto are, some of them, in Texas, and others have been lost; that the two drafts mentioned in schedule drawn by R. S. Neighbours, commissary, are in Texas for collection; and that the deed of bankrupt's interest in house and lots in Galveston is likewise in Texas, being lot No. 9, block 622, or No. 13, block 681, or both. The assignee therefore reports that the bankrupt has not, as yet, placed him in possession of any of the assets or evidences of debt, or vouchers appertaining to his estate, but has promised to furnish the same at as early a moment as possible.

(Signed) F. B. CONRAD, *Assignee*.

Petition of assignee to sell, filed 9th May, 1845.

United States of America. In bankruptcy. Petition of assignee to sell estate of bankrupt.

To the honorable the judge of the United States district court, for the district of Louisiana.

Respectfully shews, Francis B. Conrad, of New Orleans, assignee of the estate of William Hall, of New Orleans, declared by this court a bankrupt, that the said Hall, at the time of his bankruptcy, was seized and possessed of the estate and property set forth in the schedule hereto annexed, marked A, specially set forth; that it will be for the benefit of said estate, *that it will be for the benefit of said estate*, and of all persons having interest therein, that the same should be sold, transferred, and assigned.

Wherefore, your petitioner prays the court to pass an order for that purpose according to the provisions of the act of Congress.

(Signed) F. B. CONRAD, *Assignee*.

Schedule A.

1st. All the interest of the bankrupt in the debts due the firm of Wm. Hall & Co., of which he was a member, and as set forth *on* his schedule on file in the U. S. district court.

2d. The debts and accounts due said bankrupt individually, as set forth in the same schedule.

3d. Two drafts drawn by R. S. Neighbors, commissioner, for $823 $\frac{00}{100}$, in the hands of J. W. Links, esq., of Austin, Texas, for collection.

4th. All the rights, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas, (being lot 13, block 681, or lot 9, block 622, or both.)

(Signed) F. B. CONRAD, *Assignee*.

Order of court on the foregoing petition.

United States district court, for the district of Louisiana.

On this 9th day of May, A. D. 1845, upon reading the petition aforesaid, it is ordered by the court, that due notice thereof be published in a newspaper, printed in the district, ten days at least before the time assigned for the hearing; that a hearing of the said petitioner will be had on Friday, the 23d of May next, at 10 o'clock, A. M.; when and where all creditors, the bankrupt, and other persons in interest, may appear, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

(Signed) N. R. JENNINGS, *Clerk*.

In the bankruptcy of William Hall, petition of F. B. Conrad, assignee, to sell.

In bankruptcy. United States district court, for the district of Louisiana.

Present, the Hon. Theo. H. McCaleb.

May 23d, 1845. This being the day fixed for the hearing of the above entitled petition, upon motion of [illegible] of counsel for the

assignee, and showing to the court that notice of said petition has been published according to law and the rules of the court, and all parties interested duly notified, and that no opposition has been made to the sale of the property as prayed for by the assignee, and to the terms thereof as suggested by him, it is therefore ordered, that the said assignee be authorized to sell the property surrendered by the bankrupt, consisting of effects, and as exhibited upon the reverse hereof, as exhibited and particularly set forth in the schedule filed by the assignee, and upon the terms therein suggested, as being most advantageous for the interests of the estate; a copy of which schedule is directed to be annexed to this order and served upon the assignee.

It is further ordered, that the said assignee cause the said property to be advertised in the Jeffersonian Republican, newspapers of this city, according to the rules of court, (twenty days before the sale of the real, and ten days before the sale of the personal, property.) The day of sale and the place of selling to be fixed by the said assignee.

It is further ordered, that all moneys, notes, &c., coming into the hands of the assignee, arising from the sale of said property, be deposited by him in court, according to law and the rules of court, as soon after the receipt thereof as practicable, and in no case to exceed sixty days, as specially required by the act of Congress.

(Signed) JAMES R. JENNINGS, [SEAL.]
Deputy clerk.

To wit: Schedule A.

1. All the interest of the bankrupt in the debts due the firm of William Hall & Co., of which he was a member, and set forth on his schedule on file in the United States district court.

2. The debts and accounts due said bankrupt individually, as set forth in the same schedule.

3. Two drafts, drawn by R. S. Neighbours, commissioner, for $823 $\frac{00}{100}$, in the hands of J. W. Links, esq., of Austin, Texas, for collection.

4. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas, (being lot 13, block 681, or lot 9, block 622, or both.

(Signed) F. B. CONRAD, *Assignee.*

Marshal's return, filed 21st June, 1845.

Received May 26th, 1845, and on the 27th day of the same month, agreeably to the commands of the within order, and in obedience to the instructions of F. B. Conrad, assignee, I advertised the within described property for sale in the Jeffersonian Republican, a newspaper published in the city of New Orleans, from the 27th day of May, 1845, to the 18th day of June, 1845; stating in said advertisements that said property would be sold at Banks' Arcade, in Magazine street, in the city of New Orleans, on the 18th day of June, 1845, at the hour of 12 o'clock, M., being full twenty days from the date of the first publication made until the day of sale; and on the said 18th day of June, 1845, at the time

and place specified in said advertisements, I offered said property for sale at public auction; and, after duly crying the same, Samuel W. Oakey, being the highest and last bidder, became the purchaser of—

1st. All the interest of bankrupt, William Hall, in the debts due the firm of William Hall & Co., of which he was a member, and as set forth in his schedule on file in the court from whence this order issued, for the sum of six dollars, $6.

2d. The debts and accounts due said bankrupt individually, as set forth in the same schedule, for the price of thirty dollars, $30.

3d. Two drafts drawn by R. S. Neighbours, commissioner, for $823, more or less, in the hands of J. W. Links, esq., of Austin, Texas, for collection, for the sum of fifteen dollars, $15.

4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas; lot 13, block 681, or 9, block 622, or both, for the sum and price of four hundred dollars, $400; making in all the sum of four hundred and fifty-one dollars.

Returned June 20th, 1845.

(Signed) For WM. F. WAGNER, *Marshal*.
J. P. WALDEN, *Deputy Marshal*.

Assignee's return. Filed 21 *June*, 1845.

United States district court, district of Louisiana, in bankruptcy, No. 710.

William Hall, bankrupt, individually, and as a member of the firm of Wm. Hall & Co., (Galveston, Texas,) and Hall & Todd.

By virtue of an order of court in this case, dated the 23d day of May, 1845, and after due and lawful advertisement thereof by the marshal of the United States, for the district of Louisiana, to that effect, to sell at Bank's Arcade, in Magazine street, between Natchez and Gravier streets, at 12 o'clock, noon, on the 18th day of June, 1845, and all the following described property, as per schedule annexed to said order of sale, as surrendered by the bankrupt, William Hall, viz:

1st. All the interest of the bankrupt in the debts due the firm of Wm. Hall & Co., of which he was a member, and as set forth in his schedule on file in the United States district court.

2d. The debts and accounts due said bankrupt individually, as set forth in the same schedule.

3d. Two drafts drawn by R. S. Neighbours, commissioner, for $823, (more or less,) in the hands of J. W. Links, esq., of Austin, Texas, for collection.

4th. All the right, title, and interest of the bankrupt in and to a house and lots, in Galveston, Texas, (No. 9, block 622, or No. 13, block No. 681, or both,) terms cash.

At the hour, day, and place named, the said marshal, publicly and separately, the said surrendered property, and they were severally adjudicated to Samuel W. Oakey, who was in each instance the highest and last bidder; No. 1, for the price and sum of $6; No. 2, for $30; No. 3, for $15 00; and No. 4, for the price and sum of $400; the tota

thereof being $451, (four hundred and fifty-one dollars,) the receipt whereof I hereby acknowledge; and, in consideration thereof, I hereby, by virtue of my appointment of assignee at the sitting in bankruptcy on the 10th March, 1843, by the honorable the United States district court, at which sitting the petition of said bankrupt was considered, and he decreed a bankrupt, and I appointed assignee; I therefore sell, assign, convey, and set over, all the rights, titles, and ownership of the bankrupt, and which had become vested in me by virtue of a decree on his petition, and his surrender, agreeably to the said sitting 10th March, 1843, in bankruptcy, and according to act of Congress made and provided, passed 19th August, 1841, unto the said S. W. Oakey, his heirs and assigns, forever, without any warranty.

(Signed) F. B. CONRAD, *Assignee*.

NEW ORLEANS, 18*th June*, 1845.

I, N. R. Jennings, clerk of the United States district court, for the district of Louisiana, do hereby certify, that the foregoing extracts in the bankrupt proceedings of William Hall, are true and correct copies from the original documents on file and of record in this court.

In testimony whereof I have hereunto set my hand and caused the [SEAL.] seal of the said court to be affixed, at the city of New Orleans, this 11th day of July, A. D. 1845. N. R. JENNINGS.

I, Theodore H. McCaleb, judge of the United States district court, for the district of Louisiana, do hereby certify, that N. R. Jennings, whose signature is hereunto attached, was, at the time of so signing his name, and still is, the clerk of the above named court, and that full faith and credit are due and ought to be given to all his attestations as such, and that the foregoing is according to law.

In testimony whereof I have hereunto set my hand and seal at the city of New Orleans, this 11th day of July, 1845.

THEO. H. McCALEB. [SEAL.]

I, N. R. Jennings, clerk of the United States district court, for the district of Louisiana, do hereby certify, Theo. H. McCaleb, whose signature is hereunto attached, was, at the time of so signing his name, and still is, the judge of the above named court, and that full faith and credit are due and ought to be given to all his attestations as such, and that the foregoing is according to law.

[SEAL.] Witness my hand and the seal of the said court, at the city of New Orleans, this 12th day of July, A. D. 1845.

N. R. JENNINGS, *Clerk*.

CONSULATE OF THE REPUBLIC OF TEXAS:

I, , for the Republic of Texas, for the port of New Orleans, State of Louisiana, and United States of America, do hereby certify, that H. McCaleb is judge, and N. R. Jennings clerk, of the United States district court for Louisiana; that their signatures to the annexed document are genuine; and that, as such, full faith and credit is due to their official acts.

Given under my hand and seal of office, at the city of New Orleans, this 28th day of July, eighteen hundred and forty-five, and of the independence of Texas the tenth.

[SEAL.]

EDWARD HALL,
Consular agent.

REPUBLIC OF TEXAS, *county of Galveston.*

I, Oscar Farish, clerk of the county court in and for the county of Galveston, Republic of Texas, do hereby certify, that the annexed extracts or instruments of writing in the bankrupt proceedings of Wm. Hall, embracing 12 pages, from 1 to 12 inclusive, with the consular certificate thereto, was filed in my office, for record, August 4th, 1845, at 8, A. M., and duly recorded same day, at 12, M., in record book C, pages 261, 262, 263, 264, 265, 266, 267, and 268.

In testimony whereof I hereto subscribe my name, and affix the seal of the county court, this the 4th of August, 1845.

[SEAL.]

Teste: OSCAR FARISH, *C. C. G. C.*

"O."

UNITED STATES OF AMERICA,
District of Louisiana, city of New Orleans, ss:

[SEAL.]

Be it remembered, that on this day of , in the year of our Lord one thousand eight hundred and , before me, M. M. Cohen, a commissioner, duly appointed on the 19th April, 1842, by the circuit court of the United States, in and for the eastern district of Louisiana, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, personally appeared J. P. Walden, a person of sound mind and lawful age, a witness for the defendant in civil suit now depending in the district court of the United States, in and for the State of Texas, wherein Samuel W. Oakey is plaintiff, and John H. Bennett, administrator of William Hall, deceased, and John H. Illies, defendant. And the said J. P. Walden, being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did depose and say:

That he was a deputy marshal at the United States district court at New Orleans from June, 1842, to June, 1846. The witness being shown the papers in the bankruptcy of William Hall individually, and as a member of the firm of Hall & Todd, and of William Hall & Co., saith, that in the schedule of the assets of William Hall, filed February 9th, 1843, he sees on the last page the following words interlined:

Lot No. 9, square No. 622, or
Lot 13, block 681, or both.

Said interlineation does not appear to be in the handwriting of the schedule of assets of William Hall. Said interlineation follows the asset described as the interest in house and lots, Galveston, value, say $1,000. Witness is acquainted with the handwriting of W. Oakey, and knows that the interlineation just spoken of, made in the schedule of the assets of William Hall, is in the handwriting of said S. W. Oakey; and witness believes that said interlineation was made by said Oakey.

Witness being next shown the petition of assignee to sell, filed 9th May, 1845, to which is annexed a schedule, marked A, says, that the fourth item of said schedule is in these words and figures, viz: All the right, title, and interest of the bankrupt in and to the house and lots in Galveston, Texas. That after the word Texas there is a star referring to certain words written at the bottom of the schedule; that there then follows the signature of F. B. Conrad, assignee; that the words at the bottom of the schedule, referred to by the star, are as follows, viz: Being lot 13, block 681, or lot 9, block 622, or both; that said words referred to by the star are not in the same handwriting as the schedule; which schedule, as well as the signature thereof, is in the handwriting of F. B. Conrad. Witness believes, and is clearly of opinion, from his knowledge of the handwriting of said S. W. Oakey, that the interlineation just spoken of, made in the schedule marked A, annexed to the assignee's petition to sell aforesaid, as in the handwriting of said S. W. Oakey; and witness believes that said interlineation was made by said Oakey.

Witness being next shown the order of sale received by the marshal May 26th, 1845, and returned June 20th, 1845, says, that there are in said return the following words interlined: Lot 13, block 681, or 9, block 622, or both; and that said interlineation is made in a sentence of said return, reading as follows, viz: 4th. All the right, title, and interest in and to a house and lot in Galveston, Texas; and that said interlineation is inserted, by means of a carot, after the word Texas; that said return was made by witness, and is in witness' own handwriting; that he well remembers that, at the time he made said return into the clerk's office, the interlineation just spoken of in said return was not there; it has been made by some one since witness filed his return with the clerk; said interlineation in said return is in the handwriting of said S. W. Oakey, and was made, witness believes, by said Oakey. Witness being next shown the report of the assignee, filed June 17th, 1843, says, that there is in said report the following words interlined, viz: Being lot No. 9, block 622, or No. 13, block 681, or both, and that said interlineation is made in the following sentence in said report, viz: And that the deed of bankrupt's interest, in house and lots in Galveston, is likewise in Texas; said interlineation being inserted in said sentence by means of a caret ^ after the word Texas. The handwriting of said report is that of F. B. Conrad, and it is signed by him; but said interlineation is in the handwriting of said S. W. Oakey, and was made, as witness believes, by said Oakey. Witness being next shown a deed of conveyance from Conrad, assignee, to S. W. Oakey, being one of the papers

belonging to the bankruptcy aforesaid of William Hall, and marked—return, filed 21 June, 1845, says, there are in said deed the following words interlined and interpolated, viz: No. 9, block 622, or No. 13, block No. 681, or both; that said interpolation and interlineation are made in the following sentence of said deed, viz: 4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas; and said interpolation and interlineation come after the word Texas in said sentence; that said deed of conveyance is signed in the handwriting of F. B. Conrad, but is not itself in said Conrad's handwriting; the interlineation and interpolation just spoken of are in a handwriting different from that of the deed of conveyance, so far as it is a heavier hand, and darker ink, and appears to have been made with a different pen from that with which the body of said deed of conveyance was written; but in other respects the said interlineation and interpolation are in the same handwriting as the deed of conveyance itself, which is in the handwriting of said S. W. Oakey; and witness believes that the whole deed of conveyance, as well as the interlineations and interpolations spoken of, were written by said Oakey. Witness further says, that said Oakey is, and has been for some years past, well acquainted with F. B. Conrad, the assignee of William Hall.

J. P. WALDEN.

UNITED STATES OF AMERICA,
Fifth circuit and district of Louisiana,
city of New Orleans, ss:

I, M. M. Cohen, a commissioner, duly appointed on the 17th April, 1842, by the circuit court of the United States, for the fifth circuit and district of Louisiana, under and by virtue of the acts of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "an act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "an act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing is that the witness lives in New Orleans, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause, for and in which said deposition is taken and is necessary.

I further certify, that notice was by me personally served on the plaintiff or adverse party to be present at the taking of the deposition, and to put interrogatories if he may think fit, and that notice of the time and place of taking the said deposition was by me personally served on said plaintiff or adverse party, because the said adverse party was at the time of taking said deposition within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned.

I further certify, that on this twelfth day of May, A. D. 1848, I was

attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined, and cautioned, and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same taken.

I further certify, that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have hereunto set my hand and seal.

M. M. COHEN, [SEAL.]
U. S. commissioner circuit and district court United States, for the district of Louisiana.

Commissioner's fee	$11 25	Paid by B. W. Huntington for John H. Bennett, adm'r, def't.
Notice - -	50	
	$11 75	

"*N.*"

JOHN H. BENNETT, adm'r of William Hall, dec'd, and John H. Illies, ads. SAMUEL W. OAKEY. } Notice.

Please to take notice, that witnesses will be examined (de bene esse) on the part of the defendant in the above entitled cause, before me, in the United States district court room, custom house building, New Orleans, on the fourteenth day of February, 1848, at five o'clock in the afternoon of the same day; at which time and place you are hereby notified to be present to put interrogatories if you shall think fit.

Dated in the city of New Orleans, State of Louisiana, this fourteenth day of February, A. D. 1848.

CHARLES W. HORNER,
United States commissioner.

To A. OAKEY HALL, esq.

Received February 14, 1848, and on the same day served copy of the within on A. Oakey Hall, esq., in person, at N. O.

CHAS. A. LABUZAN, *D. U. S. N.*

JOHN H. BENNETT, administrator of William Hall, deceased, and John H. Illies, vs. SAMUEL W. OAKEY. } Notice.

Please to take notice, that witnesses will be examined, (de bene esse,) on the part of the defendants in the above entitled cause, before me, in

the United States court room, custom-house building, in New Orleans, on the twelfth day of February, 1848, at five o'clock in the afternoon of the same day; at which time and place you are hereby notified to be present to put interrogatories if you shall think fit.

Dated in the city of New Orleans, State of Louisiana, this tenth day of February, A. D. 1848.

CHARLES W. HORNER,
United States Commissioner.

To SAMUEL W. OAKEY, esq.

Received February 10th, 1848, and on the same day served copy of the within by leaving the same at the office of S. W. Oakey, with his clerk, P. J. Cockburn; Mr. Oakey being out of town at the time.

Returned February 10th, 1848.

CHAS. A. LABUZAN,
Dep. U. S. Marshal.

UNITED STATES OF AMERICA,
District of Louisiana, ss:

Be it remembered, that on this twelfth day of February, A. D. 1848, before me, Charles W. Horner, a commissioner of the United States in and for the district of Louisiana, duly commissioned and qualified by the honorable the circuit court of the United States, for the fifth circuit and district of Louisiana, personally came and appeared John P. Walden, a witness for the defendants in a certain cause now pending in the district court of the United States for the district of Texas, wherein Samuel W. Oakey is plaintiff, and John H. Bennett, administrator of William Hall, deceased, and John H. Illies, are defendants; and the said John P. Walden being by me first carefully examined, and cautioned, and sworn to testify the whole truth and nothing but the truth, did depose and say as follows:

John P. Walden being duly sworn deposes and says, that he is a citizen of New Orleans, State of Louisiana, aged about thirty-three years; that he knows Samuel W. Oakey; has known him for nine or ten years; has seen the bankrupt proceedings of William Hall in the district court of the United States for the district of Louisiana, No. 710, and finds interlineations in the report of the assignee, filed 17th June, 1843, on the first page thereof, the following words, "being lot number 9, block 622, or lot No. 13, block 681, or both." And also in the schedule of assets marked A of said bankrupt, filed January 9, 1843, on the last page thereof the following words, "lot number 9, square number 622, or lot 13, block 681, or both." Also witness finds an interlineation in the marshal's return of sale of property in said bankruptcy, filed 21st June, 1845, the following words, "lot 13, block 681, or 9, block 622, or both." Also an interlineation in the return of the assignee, filed 21st June, 1845, in the following words, "No. 9, block 622, or No. 13, block number 681, or both." Witness believes all the foregoing interlineations to be in the handwriting of Samuel W. Oakey, having seen the said Oakey frequently write, and knows

that the said Oakey wrote all of the assignment made by F. B. Conrad, assignee, on the 18th June, 1845, except the words "without any warranty, F. B. Conrad;" the foregoing interlineations are in the same handwriting as the assignment, but different from the schedule and the signature, and the writing of the other documents above referred to, to wit, the marshal's return, and the schedule of assets, and the report of the assignee, filed 17th June, 1843; the interlineations are not in the handwriting of William Hall; none of the interlineations are in the handwriting of the assignee.

Witness believes that all the interlineations referred to were made subsequent to the time of sale by the marshal, as witness finds by reference to the printed advertisement of the property of the bankrupt, sold on the 18th June, 1845, the following description under item number four. "All the right, title, and interest of the bankrupt in and to a house and lot in Galveston, Texas." Witness says that by the addition of the words composing the interlineations above given, from the various documents of record, it appears that the marshal sold a certain house and lot in Galveston, Texas, "being lot No. 9, block 622, or lot No. 13, block 681, or both." This being the purport of all the interlineations; whereas the marshal only sold the property as described in the advertisement, and without any further particulars than are in the said advertisement set forth; witness was deputy United States marshal for the district of Louisiana at the time of sale; and in his capacity as such adjudicated the property, as above described in the advertisement, to S. W. Oakey for the sum of four hundred dollars. The said Oakey, at the same time, bought the remaining assets of William Hall, sold at that time for fifty-one dollars.

J. P. WALDEN.

Sworn to and subscribed before me, this 12th February, 1848.

CHARLES W. HORNER,
U. S. Commissioner for Louisiana.

And afterwards, to wit, the fourteenth day of February, 1848, the examination continued from Saturday, the twelfth day of February, 1848, was resumed after notice to the counsel for S. W. Oakey, esq., as appears from the marshal's return served personally on said counsel, A. Oakey Hall, esq., of the city of New Orleans.

Alfred Boisblanc, a witness for the defendants, being duly produced, was properly and legally sworn and examined, says, that he has been employed as clerk in the United States district court of Louisiana since 25th day of December, one thousand eight hundred and thirty-seven; he knows Samuel W. Oakey, plaintiff in this case, since 1842; does not know the other parties; has often seen, and often examined, the bankrupt proceedings of William Hall, being No. 710 (seven hundred and ten) of the docket in bankruptcy for the district of Louisiana; witness made a full and complete copy of the record of the said proceedings in June, 1845, for a gentleman in Texas, whose name witness does not now recollect; witness has now before him the original record

of said bankrupt proceedings of William Hall, and finds the following interlineations and alterations therein: In schedule marked B, being a statement of the assets of William Hall, the following words, "lot No. 9, square No. 622, or lot 13, block 681, or both," are in a different handwriting from the writing of the schedule itself; and the words are at the foot of the last page, and are therein interlined; the petition of the assignee, F. B. Conrad, to which there is annexed a schedule marked A, giving a statement of the property prayed to be sold, contains no interlineation itself, but the schedule marked A, as aforesaid, contains the following words added, with an asterisk prefixed, referring to the fourth item in the body of the schedule itself, which words are there, "being lot 13, block 681, or lot 9, block 622, or both;" the words "lot 13, block" are written with black ink; the other words, "being 681, or lot 9, block 622, or both," are written in blue ink. These words are all in the same handwriting as those interlined in the schedule before spoken of, marked B; and are in a handwriting different from that of the schedule to which they are added; they are in the same handwriting as that of the return of the assignee, or transfer, which latter document is entirely in the handwriting of Samuel W. Oakey, with the exception of the following words, "without any warranty—F. B. Conrad." The report of the assignee, filed 17th June, 1843, contains the following interlineation, made at the bottom of the first page of said report, "being lot No. 9, block 622, or No. 13, block 681, or both," which interlineation is in the same handwriting as that of the transfer before spoken of, and in a different handwriting from that of the report itself. The report itself is in the handwriting of the assignee, F. B. Conrad, and the interlineation is in the handwriting of S. W. Oakey; the marshal's return, or procès verbal of the property of the bankrupt sold, according to prayer of the petition of the assignee, filed on the 9th May, 1845, contains the following interlineation at the foot of said return, or procès verbal, to wit, "lot 13, block 681, or 9, block 622;" this interlineation is in the handwriting of S. W. Oakey; the marshal's return, or procès verbal, is in the handwriting of John P. Walden, who was at the time deputy marshal of said district of Louisiana, this return is filed twenty-first June, 1845. In the transfer of the assignee to S. W. Oakey, filed 21st June, 1845, the following interlineation is made in the fourth item: "No. 9, block 622, or No. 13, block 681, or both." This interlineation is in the body of the transfer, and is in the same handwriting as the transfer itself, which is all written in the handwriting of S. W. Oakey, except the words "without any warranty—F. B. Conrad," which is the signature at the bottom. Witness has often seen Samuel W. Oakey write, and in this way knows that the interlineations above spoken of are in said Oakey's handwriting; witness has now before him an order written by said Oakey in 1847, in the month of July of that year, to have a copy of the record in another bankrupt case; witness saw Oakey write that order himself, and it is the same handwriting as that of the interlineations above spoken of.

Witness had his testimony taken touching these interlineations in the

month of June, 1847, before A. D. Crossman, mayor of the city of New Orleans; and has heard that a clerk of Oakey withdrew the depositions from the mayor's possession during the illness of J. M. Halsey, esq., the counsel who attended the taking of said testimony on the part of the defendants in this case. The said Halsey died in the epidemic of last year. BOISBLANC.

Sworn to and subscribed before me, this fourteenth day of February, 1848. CHARLES W. HORNER,
U. S. Commissioner for Louisiana.

UNITED STATES OF AMERICA,
Fifth circuit and district of
Louisiana, city of New Orleans, ss:

I, Charles W. Horner, a commissioner, duly appointed on the 2d day of July, 1846, by the circuit court of the United States, for the fifth circuit and district of Louisiana, under and by virtue of the acts of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed 20th February, 1812; and the act of Congress, entitled "an act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "an act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, that the other depositions in the same case, taken in New Orleans in the summer of 1847, have been lost or mislaid.

I further certify, that notices were made out and served on the party plaintiff, Samuel W. Oakey, and his attorney, A. Oakey Hall, esq., to be present at the taking of the depositions, and to put interrogatories, if he or they may think fit, and that notice of the time and place of taking said depositions was served in the manner exhibited by the marshal's returns hereto annexed.

I further certify, that on the twelfth and fourteenth days of February, A. D. 1848, I was attended by the witnesses, who are of sound mind and of lawful age, and the witnesses were by me carefully examined, and cautioned, and sworn to testify the whole truth, and the depositions were by me reduced to writing in the presence of the witnesses, and after carefully reading the same to the witnesses, they subscribed the same in my presence; I have retained the depositions in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same are taken.

I further certify, that I am not of counsel or attorney to either of the parties to the suit in said deposition and captain named, or in any way interested in the event of the said civil cause named in the caption.

In testimony whereof I hereunto set my hand and seal, this fourteenth day of February, A. D. 1848.

CHARLES W. HORNER, [SEAL.]
U. S. Commissioner for Louisiana.

I, Theodore H. McCaleb, judge of the district court of the United States, for the district of Louisiana, do hereby certify, that the signature of Charles W. Horner above written is correct and genuine, and that the said Horner was and is a duly appointed and sworn commissioner of the United States to take depositions and bail for the district of Louisiana.

THEODORE H. McCALEB, [SEAL.]
United States Judge.

"M."

[SEAL.] UNITED STATES OF AMERICA,
District of Louisiana, city of New Orleans, ss:

Be it remembered, that on this 12th day of May, in the year of our Lord one thousand eight hundred and forty-eight, before me, M. M. Cohen, a commissioner, duly appointed on the 19th April, 1842, by the circuit court of the United States, in and for the eastern district of Louisiana, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress, entitled "An act in addition to an act, entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act, entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, personally appeared Alfred Boisblanc, a person of sound mind and lawful age, a witness for the defendant in a civil suit now depending in the district court of the United States, in and for the State of Texas, wherein Samuel W. Oakey, is plaintiff, and John H. Bennett, administrator of William Hall, deceased, and John H. Illies, defendant.

And the said Alfred Boisblanc being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did depose and say: That he has been assistant clerk of the United States district court, for the district of Louisiana, at New Orleans, for the last ten years. The witness being shown the papers in the bankruptcy of William Hall, individually, and as a member of the firm of Hall & Todd, and of William Hall & Co., saith, that in the schedule of the assets of William Hall, filed February 9th, 1843, he sees on the last page the following words interlined, lot No. 9, square No. 622, or lot 13, block 681, or both; said interlineation does not appear to be in the handwriting of the schedule of assets of William Hall; said interlineation follows the asset described as the interest in house and lots, Galveston, value, say $10,000.

Witness is well acquainted with the handwriting of S. W. Oakey; has seen said Oakey write very frequently in the office of the United States district court; and witness knows that the interlineation just spoken of in the schedule is in the handwriting of said Oakey; witness believes said interlineation was made by said Oakey after said schedule had been filed.

Witness being next shewn the petition of assignee to sell, filed 9th May, 1845, to which is annexed a schedule, marked A, says that the fourth item of said schedule is in these words and figures, viz: all the right, title, and interest of the bankrupt in and to the house and lots in Galveston, Texas. That after the word Texas there is a star referring to certain words written at the bottom of the schedule. That there then follows the signature of F. B. Conrad, assignee; that the words at the bottom of the schedule referred to by the star are as follows, viz: being lot 13, block 681, or lot 9, block 622, or both; that said words referred to by the star are not in the same handwriting as the schedule, which schedule, as well as the signature thereof, is in the handwriting of F. B. Conrad. Witness does know that said words written at the bottom of the page in the schedule marked A, annexed to assignee's petition to sell, just spoken of, are in the handwriting of S. W. Oakey, and witness believes that said schedule had been filed.

Witness being next shewn the order of sale, received by the marshal May 26th, 1845, says, there are in said return the following words interlined, lot 13, block 681, or 9, block 622, or both; and that said interlineation is made in a sentence of said return reading as follows, viz: 4th. All the right, title, and interest of the bankrupt, in and to a house and lots in Galveston, Texas, and that said interlineation is inserted by means of a caret ʌ, after the word Texas. That said return is in the handwriting of J. P. Walden, deputy marshal, and that the interlineation spoken of is not in Walden's handwriting, but is in the handwriting of said S. W. Oakey, who, witness believes, made said interlineation after said return of the marshal had been filed.

Witness being next shewn the report of the assignee, filed June 17th, 1843, says, that there *is* in said report the following words interlined, viz: being lot No. 9, block 622, or No. 13, block 681, or both; and that said interlineation is made in the following sentence in said report, viz: and that the deed of bankrupt's interest in house and lots in Galveston is likewise in Texas; said interlineation being inserted in said sentence by means of a caret ʌ, after the word Texas; the handwriting of said report is that of F. B. Conrad, and is signed by him, but said interlineation is in the handwriting of said S. W. Oakey, who, witness believes, made said interlineations after the filing of said report

Witness being next shewn a deed of conveyance from Conrad, assignee to S. W. Oakey, being one of the papers belonging to the bankruptcy aforesaid of William Hall, and marked—return filed 21st June, 1845, says, there are in said deed the following words interlined and interpolated, viz: No. 9, block 622, or No. 13, block 681, or both. That said interpolation and interlineation are made in the following sentence of said deed, viz: 4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas, and said interpolation and interlineation come after the word Texas in said sentence. That said deed of conveyance is signed in the handwriting of F. B. Conrad, but is not itself in said Conrad's handwriting; the interlineation and interpolation, just spoken of, are in a handwriting dif-

ferent from that of the deed of conveyance, so far as it is a heavier hand and darker ink, but in all other respects and in the same handwriting as that of the deed of conveyance itself; and witness believes from his intimate acquaintance with the handwriting of S. W. Oakey, that the interlineation and interpolation, just spoken of, as well as the deed of conveyance, were all written by said S. W. Oakey, and that said interlineation and interpolation were made after the filing of said deed of conveyance.

Witness was requested by said S. W. Oakey to make out a transcript of the proceedings in the bankruptcy of William Hall, the papers of which are the subject of his above deposition. And witness well remembers that at the time he made out said transcript all the interlineations and interpolations spoken of above in witness' testimony were not to be found in the various papers in which they are now to be seen, and it is therefore, for this reason, that witness has said that he believes that the said interlineation and interpolation were made after the filing of the different documents in which they are made. Because they have been made since witness made a transcript of the bankrupt proceedings for said S. W. Oakey.

BOISBLANC.

UNITED STATES OF AMERICA,

Fifth circuit and district of Louisiana, city of New Orleans, ss:

I, M. M. Cohen, a commissioner, duly appointed on the 17th April, 1842, by the circuit court of the United States, for the fifth circuit and district of Louisiana, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed February 20th, 1812; and the act of Congress, entitled, "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States,'" passed March, 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, that the witness lives in New Orleans, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary.

I further certify, that notice was personally by me served on the plaintiff or adverse party to be present at the taking of the desposition, and to put interrogatories, if he may think fit, and that notice of the time and place of taking said deposition was personally by me served on said plaintiff or adverse party, because the said adverse party was, at the time of taking said deposition, within (100) one hundred miles of the said city of New Orleans, the place of taking said deposition, to the knowledge of the undersigned.

I further certify, that the twelfth day of May, A. D. 1848, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined, and cautioned, and sworn to testify

the whole truth, and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same [was] taken.

I further certify, that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have hereunto set my hand and seal.

M. M. COHEN. [SEAL.]

U. S. Commissioner, circuit and district court United States, for the district of Louisiana.

Commissioner's fee $10 87½, paid by B. W. Huntington for John H. Notice - - 50 Bennett, adm'r, def't.

$11 37½

Deposition of Nathaniel Butler.

UNITED STATES OF AMERICA,
District of Louisiana, city of New Orleans, ss:

Be it remembered, that on this 29th of April, in the year of our Lord one thousand eight hundred and forty-eight, before me, M. M. Cohen, a commissioner, duly appointed on the 19th April, 1842, by the circuit court of the United States, in and for the eastern district of Louisiana, under and by virtue of the acts of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812; and the act of Congress, entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, personally appeared *appeared* Nathaniel W. Butler, a person of sound mind and lawful age, a witness for the defendants in civil suit now pending in the district court of the United States, in and for the State of Texas, wherein Samuel W. Oakey is plaintiff, and John H. Bennett, adm'r of William Hall, deceased, and John H. Illies, defendant. And the said N. W. Butler being by me first carefully examined, and cautioned, and sworn to testify the whole truth, and nothing but the truth, did depose and say: That he was an assistant clerk in the United States district court, in and for the district of Louisiana, from June, 1842, to June, 1846. The witness being shewn the papers in the bankruptcy of William Hall individually, and as a member of the firm of Hall & Todd, and of William Hall & Co., saith that in the schedule of the assets of William

Hall, filed February 7th, 1843, he sees on the last page the following words interlined:

Lot No. 9, square No. 622; or
Lot 13, block 681, or both.

Said interlineation does not appear to be in the handwriting of the schedule of assets of William Hall; said interlineation follows the asset described as the interest in house and lots, Galveston, value, say $1,000.

Witness being next shewn the petition of assignee to sell, filed 9th May, 1845, to which is annexed a schedule marked A, says, that the fourth item of said schedule is in these words and figures, viz: All the right, title, and interest of the bankrupt in and to the house and lots in Galveston, Texas; that, after the word Texas, there is a star referring to certain words written at the bottom of the schedule; that there then follows the signature of F. B. Conrad, assignee; that the words at the bottom of the schedule, referred to by the star, are as follows, viz: being lot 13, block 681, or lot 9, block 622, or both; that said words, referred to by the star, are not in the same handwriting as the schedule, which schedule, as well as the signature thereof, is the handwriting of F. B. Conrad; witness does not know the handwriting of S. W. Oakey. Witness being next shewn the order of sale received by the marshal May 26th, 1845, and returned June 20th, 1845, says, there are in said return the following words interlined, lot 13, block 681, or 9, block 622 or both; and that said interlineation is made in a sentence of said return reading as follows, viz: 4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas; and that said interlineation is inserted by means of a caret ^ after the word Texas; that said return is in the handwriting of J. P. Walden, deputy marshal, and that the interlineation spoken of is not in said Walden's handwriting. Witness being next shewn the report of the assignee, filed June 17th, 1843, says, that there is in said report the following words interlined, viz: being lot No. 9, block 622, or No. 13, block 681, or both; and that said interlineation is made in the following sentence in said report, viz: And that the deed of bankrupt's interest in house and lots in Galveston is likewise in Texas; said interlineation being inserted in said sentence by means of a caret ^ after the word Texas; the handwriting of said report is that of F. B. Conrad, and it is signed by him, but said interlineation is in a handwriting unknown to deponent. Witness being next shewn a deed of conveyance from Conrad, assignee, to S. W. Oakey, being one of the papers belonging to the bankruptcy aforesaid of William Hall, and marked return filed 21st June, 1845, says, there are in said deed the following words interlined and interpolated, viz: No. 9, block 622, or No. 13, block No. 681, or both; that said interpolation and interlineation are made in the following sentence of said deed, viz: 4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas; and said interpolation and interlineation come after the word Texas in said sentence; that said deed of conveyance is signed in the handwriting of F. B. Conrad, but is not itself in said Conrad's handwriting; the interlin-

eation and interpolation just spoken of are in a handwriting different from that of the deed of conveyance, so far as it is a heavier hand and darker ink; that all of said interpolations and interlineations appear to be in one handwriting, the witness cannot say whose.

NATHL. W. BUTLER.

UNITED STATES OF AMERICA,

Fifth circuit and district of Louisiana,

city of New Orleans, ss:

I, M. M. Cohen, a commissioner duly appointed on the 17th April, 1842, by the circuit court of the United States, for the fifth circuit and district of Louisiana, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States," passed February 20th, 1812; and the act of Congress entitled "An act in addition to an act entitled 'an act for the more convenient taking of affidavits and bail in civil cases depending in the courts of the United States,'" passed March 1st, 1817; and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify, that the reason for taking the foregoing deposition is, that the witness lives in New Orleans, more than one hundred miles from Galveston, State of Texas, the place of trial of the cause for and in which said deposition is taken and is necessary.

I further certify, that notice was by me personally served on the plaintiff or adverse party to be present at the taking of the deposition, and to put interrogatories, if he may think fit; and that notice of the time and place of taking the said deposition was personally by me served on said plaintiff or adverse party, because the said adverse party was, at the time of taking said deposition, within (100) one hundred miles of the said city of New Orleans, the place of taking said depositiou, to the knowledge of the undersigned.

I further certify, that on this twenty-ninth day of April, A. D. 1848, I was attended by the witness, who is of sound mind and lawful age, and the witness was by me carefully examined, and cautioned, and sworn to testify the whole truth; and the deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing the same with my own hand, and forwarding to the court for which the same is taken.

I further certify, that I am not of counsel nor attorney to either of the parties to the suit in said deposition and caption named, or in any way interested in the event of said civil suit named in the caption.

In testimony whereof I have hereunto set my hand and seal.

M. M. COHEN, [L. S.]

U. S. commissioner, circuit and district court United States, for the district of Louisiana.

Commissioner's fee,		$7	25, paid by B. W. Huntington for John H.
Notice	- -	50	Bennett, adm'r, def't.
Copy	- -	40	
Service	- -	50	
		$8	65

"L."

Transcript of the proceedings in the bankruptcy of William Hall.

United States district court for the district of Louisiana.

Petition to be declared a bankrupt, filed 9th February, 1843.

UNITED STATES OF AMERICA.

In bankruptcy.

Petition by debtor for benefit of the act of Congress.

To the honorable the judge of the United States district court, for the eastern district of Louisiana:

Respectfully represents, William Hall, (late of Galveston, Texas,) in the parish of Orleans, and State of Louisiana, that he is owing debts, in his private right and capacity, William Hall & Co., and Hall & Todd, to sundry creditors, a list of whose names and places of residence, and the amount due to each, according to the best of his knowledge and belief, is contained in the schedule hereto annexed, A; and that the annexed schedule, marked B, contains an accurate inventory of his property, rights, and credits, of every name, kind, and description, and of the location and situation of each and every parcel and portion thereof; that he is unable to meet his debts and engagements, and he therefore applies to this honorable court for the benefit of the act of Congress, entitled An act to establish a uniform system of bankruptcy throughout the United States, and prays that, after due proceedings had, he may be declared, by a decree of the court, to be a bankrupt within the purview of the said act; and upon his compliance with all the requisitions of the said act, and all the orders and directions of the court in the premises, that he may be decreed to have a certificate of discharge from all his debts provable under the said act, and otherwise entitled to all the benefits thereof.

(Signed) WM. HALL.

On this ninth of February, A. D. 1843, sworn to by the petitioner, before me,

(Signed) W. J. VASON,

Commissioner of the said court, &c., &c.

Order of the court thereon.

UNITED STATES DISTRICT COURT,

Eastern district of Louisiana:

On this ninth day of February, A. D. 1843, upon reading the foregoing petition, it is ordered by the court, that notice thereof be pub-

lished in two newspapers printed in the district at least twenty days before *me* the 10th day of March, when a hearing will be had on the said petition at this court room, within the said district, at 10 o'clock in the forenoon, so that persons interested may appear at the same time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

(Signed) JAMES R. JENNINGS,
Dep. clerk of the court.

Schedule filed February 9th, 1843.

A.

Schedule of the liabilities and assets of Wm. Hall.—Liabilities under the firm of Hall & Todd.

Doremus, Suydam & Nixon	New York.	Notes of firm in their favor at	$700 00
Hallock & Bates - - -	do	do do do	350 00
Roach & Throckmorton -	do	do do do	375 00
Plumb, Crandell & Co. -	do	do do do	625 00
Butler & Aldrich - - -	do		320 00
			$2,370 00

Liabilities under the firm of William Hall & Co.

M. Reed & Son - - -	Philadelphia.	In judgment at Pittsburg -	$1,040 79
Mayberry, Giller & Watkin	do	do do	1,602 79
Findley, Pollard & Graff -	do	do do	632 81
E. D. Wolfe & Co. - -	do	do do	2,194 45
Weber, Kendall & Co. -	do	do do	544 94
Lippencott & Way - -	do	do do	765 87
Dan'l Deal & Co. - -	do	do do	508 55
Baldwin & Lee - - -	do	do do	756 00
S. & A. Law - - -	do	do do	706 19
Fitzgerald, Fry & Co. - -	do	do do	700 00
Sam'l McKelvey - - -	Pittsburg, Pa.	Book account, &c., about -	6,000 00
			$15,445 79

Liabilities of William Hall.

Thomas B. Eastland - -	New Orleans.	My draft accepted by W. C. Tompkins & Co. - -	$400 00
Dalzell & Fleming - -	Pittsburg, Pa.	My two drafts accepted by W. C. Tompkins & Co., amounting to about - -	540 00
Wm. C. Tompkins & Co. -	New Orleans.	Book acc't amt'g to about -	13,000 00

(Signed) WM. HALL.

B.

Schedule of assets of Wm. Hall.—Assets from the firm of Wm. Hall & Co.

Joseph Porterfield -	Venango,	Pa.	Notes and book acct.	$7,819 66
Cerrerway & Foreman	Green co.,	do	Book acc't	259 46
J. M. Kelly - -	Armstrong,	do	do	224 02
Robt. McIlnair - -	Armstrong,	Pa.	Notes and book acc't	140 83
Wm. Karnert - -	Venango,	do	do	200 00
Jacob Truby - -	do		do	79 12
Isaac Merrick - -	do		do	246 31
Russel Boley - -	Mercer,		do	274 73
John Shannon - -	Alleghany co.,		do	72 22
John L. Porter - -	Venango,		do	12 29
Thos. F. Chambers -	Washington,		do	6 31
Mrs. Baker - -	Pittsburg,		do	2 42
James Lattemer - -	do		do	11 64
Mrs. McCurdy - -	do		do	7 00
Thos. McCullough -	do		do	2 94
Estate of T. Livingston, dec'd - - -	do		do	60 57
Jonathan Edward -	do		do	22 58
Jas. McBride - -	do		do	12 11
Andrew Sloan - -	do		do	6 55
C. McQuiston - -	do		do	6 94
Wm. Supson - -	do		do	8 58
H. L. Osborn - -	do		do	1 23
Mrs. McCandless -	do		do	3 08
John Lattimer - -	do		do	3 97
Robt. Caruthers - -	do		do	29 29
David Brisbane - -	Ohio,		do	89 54
Henry Baugher - -	Venango,	Pa.	do	46 72
Andrew McCuslin -	do	do	do	57 19
Doct. Johnston - -	Pittsburg,	Pa.	do	6 63
John Hamilton - -	do		do	79 30
E. H. Morrison - -	do		do	46 55
Ira Avery - - -	do		do	17 06
Wm. B. Smith - -	do		do	5 00
J. R. Kerr - -	do		do	9 06
Doct. Smith - -	do		do	5 00
Charles McElroy -	do		do	12 00
Robt. Morton - -	do		do	53 62
Wm. Seely - -	do		Acc't,	13 63
Robt. McElheny -	Alleghany,	Pa.	do	165 11
Wm. B. Foster - -	do		do	112 01

B.—Continued.

Scott & Kinkead -	Pittsburgh,	Acc't,	$69 90
John Drewin - -	do	do	17 24
Doct. J. H. Irwin -	do	do	26 71
P. Keough - -	do	do	19 26
Bell, Moore & Co. -	Steubenville, O.	do	68 28
H. Forward - -	Pittsburgh,	do	4 74
Wm. Woods - -	Indiana co.,	Notes,	532 80
C. P. James - -	Pittsburgh, Pa.	Acc't,	64 95
L. Morrison - -	do	do	7 00
Thos. McCullough -	do	do	2 21
George M'Kee - -	do	do	47 38
Goodwin Mead - -	do	do	27 47
Wm. Craig - -	do	do	33 00
Wm. R. Caldwell -	do	do	9 68
Sam'l Brink - -	Armstrong co., Pa.	do	1,088 77
H. G. Strong - -	Pittsburgh, Pa.	do	23 83
John Sloan - -	do	do	9 27
John S. Gardner -	Venango,	do	22 45
John McCorunac -	Armstrong co.,	do	5 68
John Clever - -	do	do	21 44
Doctor Neal - -	Pittsburgh,	do	33 96
Isaac Harris - -	do	do	26 56
Jas. Taylor - -	do	do	8 88
Simon Truby - -	Armstrong co., Pa.	do	15 75
C. C. Hamilton - -	Pittsburgh,	do	39 93
S. Shenden - -	do	do	6 62
			$12,466 70

Assets of William Hall—Accounts, &c., due him.

Steambo't Philadelphia,	Lost,	Account,	$204 63
Wm. M. Price - -	N. O,	do.	10 08
J. S. Able & Co. -	Nacogdoches, Texas	do.	544 80
Capt. B. F. Hanna -	Texas,	do.	47 22
Parker & Adams - -	Houston, Texas,	do.	979 34
George Bryan - -	Jasper county,	do.	470 40
Estate of N. Lynch -	Liberty,	do.	338 57
Sessions & Blair - -	Houston,	do.	163 37
H. W. Bentick - -	Galveston,	do.	202 55
Archibald Frazin - -	Bastrop,	do.	379 21
C. W. Adams - -	Houston,	do.	138 56
G. H. Peters - -	Colorado,	do.	243 67
John Ramsey - -	Washington,	do.	49 92

Assets of Wm. Hall—Accounts, &c., due him.—Continued.

Matthew Hopkins -	Galveston,	Account,	$47 07
Capt. Hitchcock - -	do.	do.	10 08
Capt. Pillans - -	do.	do.	6 75
Capt. Kinsman - -	do.	do.	18 83
C. Hildebrant - -	Sabine,	do.	21 89
A. L. Crossman - -	Galveston, Texas,	do.	28 86
Wm. L. P. - - -	do. do	do.	82 00
Capt. John Wade, dec'd	do. do.	do.	3 55
Ennis Kimball Holt -	Houston,	unsettled ac't, say	100 00
Two drafts drawn by R. S. Neighbors, commissary, in favor of F. W. Geisendorf, in the Republic of Texas, and in hands of J. W. Links, esq, Austin - -			823 00
For collection interest in house and lots, Galveston, value, say - - - - - - - - - - -			1000 00
(*Lot No.* 9, *square No.* 622, *or lot* 13, *block* 681, *or both.*)			
Interest in a claim against J. M. Robinson, Houston, Texas, about - - - - - - - - - -			400 00

(Signed) WILLIAM HALL.

No. 710. *Decree.*

UNITED STATES DISTRICT COURT,
Eastern district of Louisiana:

In bankruptcy, March 10th, 1843.—Present the Hon. T. H. McCaleb. In the matter of the petition of William Hall, to be declared a bankrupt.

The petition and proofs having been inspected and considered by the court, and being found in conformity with the requirements of the act of Congress, it is therefore ordered, that William Hall, of New Orleans, individually, and as a member of the commercial firms of Wm. Hall & Co., and of Hall & Todd, be, and he is hereby, declared and decreed a bankrupt, pursuant to the act of Congress, entitled "an act to establish a uniform system of bankruptcy throughout the United States," passed August 19th, 1841.

It is further ordered, that F. B. Conrad, of New Orleans, be, and he accordingly is *is* hereby, appointed assignee of the estate of the said bankrupt, and that the said F. B. Conrad give security in a bond to the United States, with the sufficient sureties, to be approved by the court, in the sum of ten dollars, conditioned by the due and faithful discharge of all his duties as such assignee, and his compliance with the orders and directions of the court.

(Signed) THEO. H. McCALEB,
U. S. Judge.

Petition for a discharge.

UNITED STATES OF AMERICA:

In bankruptcy.—Petition by bankrupt for a discharge.

To the honorable the judge of the United States district court, for the eastern district of Louisiana:

Respectfully represents, William Hall, individually, and as a membe of the firm of Wm. Hall & Todd, of New Orleans, in the parish of Orleans, and district of Louisiana, that on the 10th day of March last past he was duly declared bankrupt under the act of Congress in that case made and provided; that he has duly surrendered all his property, and fully complied with and obeyed all the orders and directions of the court touching his bankruptcy, and he is ready to submit to any other and further examinations, orders, and directions which the court may require; he therefore prays, that after due notice and proceedings, to be had in the premises, he may be decreed by the court to have a full discharge from all his debts provable under the said bankruptcy, and a certificate thereof granted, according to the act of Congress.

Dated this 10th day of March, 1843.

(Signed) JOHN M. HALL,
(Signed) For WILLIAM HALL.

Order thereon.

UNITED STATES DISTRICT COURT,
Eastern district of Louisiana:

On this 10th day of March, A. D. 1843, upon reading the foregoing petition, it is ordered by the court that notice hereof be published in a newspaper printed in the district, seventy days at least before the 15th day of June next, when hearing will be had on the said petition at the court room in this city, within the said district, at 9 o'clock in the forenoon, and all creditors who have proved their debts, and other persons in interest, may appear at the same time and place, and show cause, if any they have, why the prayer of the said petitioner should not be granted. And it is further ordered by the court, that all such creditors whose places of residence are known shall be entitled to a service and notice of the same petition and order, either personally or by a letter addressed to them at their known usual place of residence, attested by the clerk of the court, and served or left at their usual place of abode by the marshal or his deputy, or sent by the mail, whereof due proof is to be given.

(Signed) JAMES R. JENNINGS,
Deputy clerk of the court.

Decree of discharge, June 16th, 1843.

Present, the honorable Theodore H. McCaleb.

William Hall having filed his petition praying to be discharged in full from all his debts, individually, and as a member of the commercial

firms of William Hall & Co., and of Hall & Todd, and for a certificate of such discharge pursuant to the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," passed August 19th, 1841. And it being shewn to the satisfaction of the court, that the said bankrupt has bona fide surrendered all his property and rights of property, and that he has fully complied with and obeyed all the orders and directions which have from time to time been passed by this court, and has otherwise conformed to all the requisites of the said act; that proof of publication according to the rules of this court has been duly made, and notice given to the creditors; and it further appearing that no written dissent to the bankrupt's discharge has been filed by a majority in number and value of his creditors, who have proved their debts, and no sufficient cause being now shown why the prayer of the petitioner should not be granted.

It is therefore, by virtue of the act aforesaid, ordered and decreed by the court, that the said William Hall be, and he is accordingly hereby, fully discharged of and from all his debts owing by him at the time of the presentation of his petition to be declared a bankrupt, to wit, on the 9th of February, A. D. 1843.

It is further ordered, that the clerk duly certify this decree under the seal of this court, and deliver the same to the bankrupt when demanded.

Signed, THEODORE H. McCALEB,
United States Judge.

Report of assignee filed June 17th, 1843.

In the bankruptcy of William Hall. United States district court, in bankruptcy.

The undersigned, assignee of William Hall, the bankrupt, reports to the court that the bankrupt has represented to him, that all that portion of his assets stated on his schedule to belong to the firm of William Hall & Co., arise from a commercial firm existing some years ago under that title at Pittsburgh, Pennsylvania, of which the bankrupt was a member. That said firm was dissolved in 1839, or in the beginning of the year 1840. That at its dissolution the bankrupt left all the books of accounts, and all the assets of the firm, in the hands of his partner, one Samuel McKelvey, who took charge of the liquidation and settlement of the concern, and that the bankrupt has had nothing to do with them since. The assignee has been informed by the bankrupt, that all those assets are worthless. That as regards all that portion of assets under the title of William Hall, the same arises from business of the bankrupt in this city and in Texas since 1840. That the books relating thereto are some of them in Texas and others have been lost. That the two drafts mentioned in schedule, drawn by R. S. Neighbors, commissary, are in Texas for collection, and that the deed of bankrupt's interest in house and lots in Galveston, being lot No. 9, block 622, or No. 13, block 681, or both, likewise in Texas. The assignee, therefore, reports that the bankrupt has not as yet placed him in full posses-

sion of any of the assets or evidences of debt or vouchers appertaining to his estate, but has promised to furnish at as early a moment as possible.

Signed, F. B CONRAD, *Assignee.*

Petition of assignee to sell, filed 9th of May, 1845.

UNITED STATES OF AMERICA.

In bankruptcy.—Petition of assignee to sell estate of bankrupt.

To the honorable the judge of the United States district court, for the district of Louisiana, respectfully shows, Francis B. Conrad, of New Orleans, assignee of the estate of William Hall, of New Orleans, declared by this court a bankrupt. That the said Hall at the time of his bankruptcy was seized and possessed of the estate and property set forth in the schedule hereto annexed, marked A, specially set forth. That it will be for the benefit of said estate, and of all persons having interest therein, that the same should be sold, transferred, and assigned.

Wherefore petitioner prays the court to pass an order for that purpose according to the provisions of the act of Congress.

Signed, F. B. CONRAD, *Assignee.*

Order thereon.

UNITED STATES DISTRICT COURT,
For the district of Louisiana:

On this 9th day of May, A. D. 1845, upon reading the petition aforesaid, it is ordered by the court, that due notice thereof be published in a newspaper printed in the district, ten days at least before the time assigned for the hearing, that a hearing of the said petition will be had on Friday, the 23d of May next, at 10 o'clock, A. M., when all creditors, the bankrupt, and other persons in interest may appear, and show cause, if any they have, why the prayer of the said petitioner should not be granted.

Signed, N. R. JENNINGS, *Clerk.*

Schedule annexed to petition.

Schedule mark H.

1st. All the interest of the bankrupt in the debts due the firm of William Hall & Co., of which he was a member, and as set forth on his schedule on file in the United States district court.

2d. The assets and accounts due said bankrupt, individually, as set forth in the same schedule.

3d. Two drafts drawn by R. S. Neighbors, commissioner, for $823, in the hands of J. W. Links, esq., of Austin, Texas, for collection.

4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas.*

(Signed) F. B. CONRAD, *Assignee.*

* (Being lot 13, block 681, in lot 9, block 622, or both.)

Friday, May 23, A. D. 1845.

The court met pursuant to adjournment. Present the honorable Theo. H. McCaleb.

In the bankruptcy of W. Hall—F. B. Conrad, assignee.

This being the day fixed for the hearing of the petition of the assignee in the above entitled bankruptcy, to sell the property surrendered by said bankrupt to his creditors, and it being shown, to the satisfaction of the court, that notice has been duly made and no opposition filed, an order of sale has this day been granted, and the assignee authorized to sell the property described in his schedule annexed to his petition, and in the manner and form prayed therein; and it is further ordered, that publication be made in the Republican.

Report of assignee.

Report of F. B. Conrad, assignee of the estate of William Hall, 1845.

1845, June 1st.—Received from S. W. Oakey, for the assets of the bankrupt, purchased by him at U. S. marshal's sale	$451 00
1845, June 25th.—Paid U. S. marshal's amount of his bill of costs, as per du. cert. - - - - -	28 38
Assignee's commission, 5 per cent. on $451 - -	22 25
Balance deposited in U. S. district court this day, four hundred dollars thirty-seven cents - - - -	400 37

New Orleans, February 13th, 1846.

Signed, F. B. CONRAD, *Assignee.*

Sworn to before me.

Signed, ED. LAWE, *Comm. in Bank.*

August 8, 1846.

Transfer of assignee, filed 21st June, 1845.

United States district court, district of Louisiana, in bankrupty, No. 710.

William Hall, bankrupt, individually, and as a member of the firm of Wm. Hall & Co., (Galveston, Texas,) and Hall & Todd.

By virtue of an order of court in this case, dated the 23d day of May, 1845, and after due and lawful advertisement thereof by the marshal of the United States, for the district of Louisiana, to that effect, to sell at Bank's Arcade, in Magazin street, between Natchez and Gravier streets, at 12 o'clock, noon, on the 18th day of June, 1845, *and* all the following described property, as per schedule annexed to said order of sale, as surrendered by the bankrupt, William Hall, viz:

1st. All the interest of the bankrupt in the debts due the firm of Wm. Hall & Co., of which he was a member, and as set forth in his schedule on file in the United States district court.

2d. The debts and accounts due said bankrupt, individually, as set forth in the same schedule.

3d. Two drafts, drawn by R. S. Neighbors, commissioner, for $823, (more or less,) in the hands of J. W. Links, esq., of Austin, Texas, for collection.

4th. All the right, title, and interest of the bankrupt in and to a house and lot in Galveston, Texas. (No. 9, block 622, or No. 13, block No. 681, or both.)

Terms cash.

At the hour, day, and place named, the said marshal publicly and separately [offered] the said surrendered property, and they were severally adjudicated to Samuel W. Oakey, who was in each instance the highest and last bidder. No. 1, for the price and sum of $6.00; No. 2, for $30; No. 3, for $15; and No. 4, for the price and sum of $400; the total thereof being $451, (four hundred and fifty-one dollars,) the receipt whereof I hereby acknowledge; and in consideration thereof, I hereby, by virtue of my appointment of assignee, at the sitting in bankruptcy on the 10th March, 1843, by the honorable the United States district court, at which sitting the petition of said bankrupt was considered, and he decreed a bankrupt, and I appointed assignee. I, therefore, sell, assign, convey, and set over all the rights, titles, and ownership of the bankrupt, and which had become vested in me by virtue of a decree on his petition, and his surrender agreeably to the said sitting, 10th March, 1843, in bankruptcy, and according to act of Congress made and provided, passed 19th August, 1841, unto the said S. W. Oakey, his heirs and assigns, forever, without any warranty.

New Orleans, 18 June, 1845.

Signed, F. B. CONRAD, *Assignee*.

Order of sale.

In bankruptcy, United States district court, district of Louisiana.

Present the honorable Theo. H. McCaleb, May 23d, 1845.

In the bankruptcy of William Hall—petition of F. B. Conrad, assignee. To sell.

This being the day fixed for the hearing of the above entitled petition, upon motion of the counsel for the assignee, and showing to the court that notice of said petition has been published according to law and the rules of the court, and all parties interested duly notified, and that no opposition has been made to the sale of the property as prayed for by the assignee, and to the terms as suggested by him, it is therefore ordered, that the said assignee be authorized to sell the property surrendered by the bankrupt, consisting of effects, &c., as exhibited upon the reverse hereof, as exhibited and particularly set forth in the schedule filed by the assignee, and upon the terms therein suggested as being most advantageous for the interests of the estate, a copy of which schedule is directed to be annexed to this order and served upon the assignee. It is further ordered, that the said assignee cause the said property to be advertised in the Jeffersonian Republican newspaper of this city, according to the rules of court, (twenty days before the sale of the real, and ten days before the sale of the personal, property.) The day of sale and the place of selling to be fixed by the said assignee. It

is further ordered, that all moneys, notes, etc., coming into the hands of the assignee, arising from the sale of said property, be deposited by him in court, according to law and the rules of court, as soon after the receipt thereof as practicable, and in no case to exceed sixty days, as specially required by the act of Congress.

[SEAL.] (Signed) JAMES R. JENNINGS, *D'y Clerk.*

Schedule A, referred to in the foregoing order of sale, to wit:

1st. All the interest of the bankrupt in the debts due the firm of Wm. Hall & Co., of which he was a member, and as set forth on his schedule on file in the U. S. district court.

2d. The debts and accounts due said bankrupt individually, as set forth in the same schedule.

3d. Two drafts drawn by R. S. Neighbors, commissioner, for $823, in hands of J. W. Links, esq'r, of Austin, Texas, for collection.

4th. All the right, title, and interest of the bankrupt in and to a house and lot in Galveston, Texas.*

(Signed) F. B. CONRAD, *Assignee.*

* Being lot 13, block 681, or lot 9, block 622, or both.

Return of the marshal.

Received, May 26th, 1845, and on the 27th day of the same month, agreeably to the commands of the within order, and in obedience to the instructions of F. B. Conrad, assignee, I advertised the within described property for sale in the Jeffersonian Republican, a newspaper published in the city of New Orleans, from the 27th day of May, 1845, the 18th day of June, 1845, stating in said advertisements that said property would be sold at Bank's Arcade, in Magazine street, in the city of New Orleans, on the 18th day of June, 1845, at the hour of 12 o'clock, M., being full twenty days from the date of the first publication made until the day of sale; and the said 18th day of June, 1845, at the time and place specified in said advertisements, I offered said property for sale at public auction, and after duly crying the same, Samuel W. Oakey being the highest and last bidder, became the purchaser of, 1st, all the interest of bankrupt (William Hall) in the debts due the firm of William Hall & Co., of which he was a member, and as set forth in his schedule on file in the court from whence this order issued, for the sum of six dollars ($6.) 2d. The debts and accounts due said bankrupt individually, as set forth in the same schedule, for the price of thirty dollars ($30.) 3d. Two drafts drawn by R. S. Neighbors, commissioner, for $823, more or less, in the hands of J. W. Sinks, esq'r, of Austin, Texas, for collection, for the sum of fifteen dollars ($15.) 4th. All the right, title, and interest of the bankrupt in and to a house and lots in Galveston, Texas,—(lot 13, block 681, or 9, block 622, or both, for the sum of four hundred dollars—($400,) making in all the sum of four hundred and fifty-one dollars. Returned June 20th.

For WM. F. WAGNER, *Marshal.*

(Signed) J. P. WALDEN, *Deputy marshal.*

Clerk's office, United States district court, for the district of Louisiana.

I, Needler R. Jennings, clerk of the court aforesaid, do hereby certify, that the foregoing twenty pages contain a full and complete transcript of all the proceedings, pleadings, and documents, on file and of record in the bankruptcy of Wm. Hall, number 710, on the docket of the said court. And I further certify, that the interlineations contained in pages 6, 11, 13, 15, 19, and 20, are true and exact copies of the interlineations in the original papers aforesaid; that they are of the same number of words, and are placed in the same order as in said original papers.

In testimony whereof I have hereunto signed my name and affixed the seal of the said court at New Orleans, this fourth day of [SEAL.] March, A. D. 1848.

N. R. JENNINGS, *Clerk.*

I, Theodore H. McCaleb, judge of the district court of the United States for the district of Louisiana, do hereby certify, that N. R. Jennings, who signed the foregoing certificate, was and is the clerk of the district court of the United States for the district of Louisiana; that faith and credit are due and ought to be given to his attestations as such, and that the above is in due form.

As witness my hand and seal at New Orleans, this fourth day of March, A. D. 1848. THEO. H. McCALEB, [SEAL.]

U. S. Judge.

An act for the relief of those who have taken the benefit of the insolvent laws of other countries.

Sec. 1. Be it enacted by the Senate and House of Representatives of the Republic of Texas in Congress assembled, That any person or persons who may have or may hereafter emigrate to and become a citizen or citizens of this Republic, and who shall have yielded and given up his or their property in satisfaction of his or their debts, under the bankrupt, insolvent, or assignment laws of the State or country from which he or they may have so emigrated, or shall have otherwise honestly and in good faith disposed of his or their property in payment and satisfaction of his or their debts as aforesaid, by the said person producing a properly authenticated certificate from the State or county from which he emigrates, of the fact of having taken the benefit of the assignment or insolvent laws, which certificate shall be certified to by an authorized consul, or an accredited agent of this Republic: Provided, That the person so applying shall be allowed twelve months from the time of pleading his insolvency to procure the certificate aforesaid, that he or they have so yielded, given up, or disposed of, all his or their property as aforesaid, and obtaining the certificate to that effect, shall be as fully and perfectly exempt and discharged from all and every debt and pecuniary liability contracted previous to his or their having taken the benefit of the law as aforesaid: Provided, however, That said certificate shall not bar the rights of creditors upon proof of fraud or falsity

of said oath; and if said oath be false when taken, the person or persons so swearing falsely, shall be subject to prosecution and punishment for perjury.

DAVID S. KAUFMAN,
Speaker of the House of Representatives.
ANSON JONES,
President pro tem. of the Senate.

Statement of facts.

Filed 23d June, 1848.

THOS. BATES, *Clerk.*

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT and John H. Illies. } Trespass to try titles, &c.

Whereas the act of the State of Texas, approved 13th May, 1846, and still in force, entitled "An act to regulate proceedings in the district courts," in the hundredth section thereof declares as follows:

"Sec. 100. After the charge of the judge, either party, or his attorney, may present in writing, without argument, such charges or instructions as he desires to be given to the jury, which the judge shall deliver to the jury in whole or in part, or refuse to deliver the same as he may think proper; but, when the charge asked or any part thereof is refused to be given, the judge shall write down distinctly what portions of the same he refuses and what portions he gives, and also subscribe his name thereto; all of which shall be filed by the clerk, and constitute a part of the records of the case, subject to revision for error by the supreme court, in the same manner as if a regular bill of exceptions had been filed.".

Now, this is to certify, that the plaintiff, by attorney, presented their instructions, which were filed, and given, and refused, as noted in the margin of each one, in the manner set forth and signed, which are the same exceptions recorded and set forth, and ordered to be copied in the plaintiff's bill of exceptions.

And whereas the 135th section of said act reads as follows:

"Sec. 135. After the trial of any cause, when the party has given notice of appeal, or intends to give such notice, it shall be the duties of the parties respectively, to make out a clear and explicit statement or bill of the facts given in evidence on the trial of the cause, and submit the same to the opposite party, or his attorney, for inspection during the term; and if the parties or their attorneys agree as to the facts given in evidence, they shall sign and seal the same, and submit it to the judge for approval and signature, who shall also sign it; and the statement so made shall be filed as a part of the record of the court."

Now, the undersigned, attorneys in the cause, hereby agree that all the facts given in evidence by the parties, and offered in evidence and refused, and fully set forth in the bill of exceptions sealed by the court, on motion of the attorneys of the plaintiffs, and this we agree upon

as a statement of facts during the term, and now tender them to the judge in accordance with the provisions of said statutes, this 23d June, 1848.

JOSEPH A. SWEAT,
GEO. W. PASCHAL,
Attorneys for plaintiff.
JONES & BUTLER.

I, John C. Watrous, do hereby certify, that the foregoing provisions of the Texas statute are correctly copied and set forth; and also that the foregoing statement of facts agreed upon by the counsel is true; and that all other facts which transpired during the trial are correctly set forth in the record.

Given under my hand as judge, during the continuance of said term, this 23d day of June, A. D. 1848.

JOHN C. WATROUS, [SEAL.]
U. S. judge.

Motion.

Filed 17th August, 1848. THOS. BATES, *Clerk.*

S. W. OAKEY
vs.
JOHN H. BENNETT and John H. Illies.

The said S. W. Oakey moves for a retaxation of costs in this case, and hereby objects to the whole and every part of this charge of the receiver for commissions as costs, with which plaintiff may be taxed. And so far as plaintiff may, he objects to the amount of said receiver for counsel fees paid Mess. Potters, and to the drawback of $116 39.

J. W. SWETT &
GEO. W. PASCHAL,
For plaintiff.

Monday, August 21st, 1848.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT et al.

This day come the parties by their attorneys; and plaintiff, by attorney, moves the court for a retaxation of costs in this case, and hereby objects to the whole and every part of the receiver's charge for commissions as costs, for the charge of counsel fees paid Messrs. Potters, and the drawback of $116 $\frac{39}{100}$. Same, upon hearing, was refused to the clerk of this court to retax said costs.

Tuesday, August 29th, 1848.

SAMUEL W. OAKEY
vs.
JOHN H. BENNETT et al.

In this case, in reference to the clerk to retax the costs, and the clerk having done so, and reported to the court, and the attorney of plaintiff

excepting to the same, upon hearing before the court, it is ordered, that said taxing be sustained as made by the clerk, and that the same be paid by plaintiff.

Power of attorney.

Know all men by these presents, that I, Samuel W. Oakey, of the city of New Orleans, and State of Louisiana, have nominated, constituted, and appointed, and do, by these special presents, nominate, constitute, and appoint, George W. Paschall, of the city and county of Galveston and State of Texas, my true and lawful special attorney for me and in my name to make any appeals from judgment rendered against me in any of the courts of the State of Texas, or United States courts in Texas, or application for any writ of error for such appeal; and, indeed, all and every form to perfect any appeal to higher tribunals of justice in any case of judgment or *judgment or* decree made and rendered against me; to sign, in my name, any bond or bonds required to make such appeal or appeals, application for writs of error and appeal, as in such cases the law or form of court render necessary; hereby ratifying all and singular whatever my said special attorney, George W. Paschall, may do or cause to be done in these specialties.

In witness whereof I have set my hand and seal hereto, and in lieu of seal, the letters L. S. with scroll around, and annexed to my signature, this day of A. D. 1848.

[L. S.]

S. W. OAKEY. [L. S.]

Bond, filed 31st July, 1848.

UNITED STATES, *district of Texas:*

Know all men by these presents, that I, Sam'l W. Oakey, by his attorney in fact, Geo. W. Paschal, as principal, and Alfred F. James, as his security, are held and firmly bound to John H. Bennett and John H. Illies in the sum of two hundred dollars; for the true performance whereof we bind ourselves, our heirs and assigns, executors and administrators. Sealed with our seals, and dated this 31st day of July, A. D. 1848.

The condition of the above obligation is such, that whereas the said Samuel W. Oakey is about to prosecute a writ of error from a *jugment* rendered at the May term, 1848, in the United States district court, in a suit to try titles to real estate between said Oakey as plaintiff, and said Bennett and Illies as defendants, against said Oakey for costs, to the Supreme Court of the United States of America.

Now, should the said Oakey pay all costs which may accrue about the prosecution of said writ of error, and do and abide the *jugment* of said Supreme Court in the premises, then this obligation to be void, otherwise to remain in full force.

S. W. OAKEY, [L. S.]
By GEO. W. PASCHAL, [L. S.]
Attorney in fact.
A. F. JAMES. [L. S.]

This bond executed before me and approved, I hereby certify that the security is good and sufficient, 31st July, 1848.

JOHN C. WATROUS, *U. S. judge*.

UNITED STATES OF AMERICA, *district of Texas:*

I, Thomas Bates, clerk of the United States district court in and for the district of Texas, do hereby certify, that the foregoing one hundred and one pages, written on one side of the page, contains a full, true, and perfect transcript of the record as now appears in my office and of record in the case of Samuel W. Oakey against John H. Bennett, administrator, and John H. Illies.

In witness whereof I have hereto set my hand and affixed the seal of said court, at the city of Galveston, this 20th day of September, A. D. 1848, and seventy-third year of the independence of the United States.

[L. S.]

THOS. BATES, *Clerk*.

UNITED STATES OF AMERICA, *ss:*

To John H. Bennett, administrator, and John H. Illies, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the district of Texas, wherein Samuel W. Oakey is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this 2d day of October, in the year of our Lord 1848.

[L. S.]

THOS. BATES, *Clerk*.

We acknowledge service of the within summons, waiving all necessity of service by the marshal, and all objections thereto, and agree to enter our voluntary appearance in the Supreme Court of the United States, and defend the errors alleged by plaintiff.

Given under our hands, this 3d October, 1848.

We acknowledge the due service of this citation, and waive the service thereof by the marshal. 7th Oct., 1848.

JONES & BUTLER,
Attorneys for defts.

JOHN H. BENNETT,
Admr. estate Wm. Hall, deceased.

POTTER & POTTER,
Attorneys for deft., John H. Illies.

Filed 4th December, 1848.

excepting to the same, upon hearing before the court, it is ordered, that said taxing be sustained as made by the clerk, and that the same be paid by plaintiff.

Power of attorney.

Know all men by these presents, that I, Samuel W. Oakey, of the city of New Orleans, and State of Louisiana, have nominated, constituted, and appointed, and do, by these special presents, nominate, constitute, and appoint, George W. Paschall, of the city and county of Galveston and State of Texas, my true and lawful special attorney for me and in my name to make any appeals from judgment rendered against me in any of the courts of the State of Texas, or United States courts in Texas, or application for any writ of error for such appeal; and, indeed, all and every form to perfect any appeal to higher tribunals of justice in any case of judgment or *judgment or* decree made and rendered against me; to sign, in my name, any bond or bonds required to make such appeal or appeals, application for writs of error and appeal, as in such cases the law or form of court render necessary; hereby ratifying all and singular whatever my said special attorney, George W. Paschall, may do or cause to be done in these specialties.

In witness whereof I have set my hand and seal hereto, and in lieu of seal, the letters L. S. with scroll around, and annexed to my signature, this ____ day of ____ A. D. 1848. [L. S.]

S. W. OAKEY. [L. S.]

Bond, filed 31*st July*, 1848.

UNITED STATES, *district of Texas:*

Know all men by these presents, that I, Sam'l W. Oakey, by his attorney in fact, Geo. W. Paschal, as principal, and Alfred F. James, as his security, are held and firmly bound to John H. Bennett and John H. Illies in the sum of two hundred dollars; for the true performance whereof we bind ourselves, our heirs and assigns, executors and administrators. Sealed with our seals, and dated this 31st day of July, A. D. 1848.

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Now, should the said Oakey pay all costs which may accrue about the prosecution of said writ of error, and do and abide the *jugment* of said Supreme Court in the premises, then this obligation to be void, otherwise to remain in full force.

S. W. OAKEY, [L. S.]
By GEO. W. PASCHAL, [L. S.]
Attorney in fact.
A. F. JAMES. [L. S.]

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UNITED STATES OF AMERICA, *district of Texas:*

I, Thomas Bates, clerk of the United States district court in and for the district of Texas, do hereby certify, that the foregoing one hundred and one pages, written on one side of the page, contains a full, true, and perfect transcript of the record as now appears in my office and of record in the case of Samuel W. Oakey against John H. Bennett, administrator, and John H. Illies.

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Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this 2d day of October, in the year of our Lord 1848.

[L. S.]

THOS. BATES, *Clerk*.

We acknowledge service of the within summons, waiving all necessity of service by the marshal, and all objections thereto, and agree to enter our voluntary appearance in the Supreme Court of the United States, and defend the errors alleged by plaintiff.

Given under our hands, this 3d October, 1848.

We acknowledge the due service of this citation, and waive the service thereof by the marshal. 7th Oct., 1848.

JONES & BUTLER,
Attorneys for defts.
JOHN H. BENNETT,
Admr. estate Wm. Hall, deceased.
POTTER & POTTER,
Attorneys for deft., John H. Illies.

Filed 4th December, 1848.